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Fifty-seventh session
Sixth Committee
Agenda item 162
International convention against the reproductive cloning of human beings

Philippines, Spain and United States of America: draft resolution

International convention against the reproductive cloning of human beings

The General Assembly,

Recalling the Universal Declaration on the Human Genome and Human Rights,[1] adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization on 11 November 1997, and in particular article 11 thereof, which states that practices which are contrary to human dignity, such as the reproductive cloning of human beings, shall not be permitted,

Recalling also its resolution 53/152 of 9 December 1998, by which it endorsed the Universal Declaration on the Human Genome and Human Rights,

Bearing in mind Commission on Human Rights resolution 2001/71 of 25 April 2001, entitled "Human rights and bioethics",[2] adopted at the fifty-seventh session of the Commission,

Mindful of the importance of the development of the life sciences for the benefit of mankind with full respect for the integrity and dignity of the human being,

Mindful also that certain practices pose potential dangers to the integrity and dignity of the individual,

Concerned at recently disclosed information on research into and attempts at the creation of human beings through cloning processes,

Determined to prevent as a matter of urgency such an attack on the human dignity of the individual,

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[1] United Nations Educational, Scientific and Cultural Organization, *Records of the General Conference, Twenty-ninth Session*, vol. 1, *Resolutions*, resolution 16.

[2] See *Official Records of the Economic and Social Council, 2001, Supplement No. 3* (E/2001/23), chap. II, sect. A.

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Conscious of widespread preoccupations that the human body and its parts should not, as such, give rise to financial gain,

Recalling its resolution 56/93 of 12 December 2001, by which it decided to establish an Ad Hoc Committee, open to all States Members of the United Nations or members of specialized agencies or of the International Atomic Energy Agency, for the purpose of considering the elaboration of an international convention against the reproductive cloning of human beings,

Determined to adopt permanent and provisional measures, as appropriate, to prevent potential dangers to the human dignity of the individual,

1. *Welcomes* the report of the Ad Hoc Committee on an International Convention against the Reproductive Cloning of Human Beings on its work from 25 February to 1 March 2002;[3]

2. *Requests* the Ad Hoc Committee to prepare, as a matter of urgency, the draft text of an international convention against human cloning, bearing in mind that it does not prohibit the use of nuclear transfer or other cloning techniques to produce DNA molecules, organs, plants, tissues, cells other than human embryos or animals other than humans;

3. *Also requests* the Ad Hoc Committee, in developing the draft convention, to consider, inter alia, the following indicative elements:

(a) Scope;

(b) Definitions;

(c) The objective;

(d) Implementation;

(e) Preventive measures;

(f) Jurisdiction;

(g) Promotion and strengthening of international cooperation;

(h) Exchange of information;

(i) Mechanisms for monitoring implementation;

4. *Solemnly declares* that, pending the adoption of an international convention against human cloning, States shall not permit any research, experiment, development or application in their territories or areas under their jurisdiction or control of any technique aimed at human cloning;

5. *Calls upon* States to adopt such measures as may be necessary to prohibit those techniques of genetic engineering that may have adverse consequences on the respect for human dignity;

6. *Requests* the Secretary-General to provide the Ad Hoc Committee with the necessary facilities for the performance of its work;

7. *Invites* the Ad Hoc Committee to take into consideration the contributions of United Nations agencies and competent international organizations,

[3] *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 51* (A/57/51).

as well as other relevant bodies of international opinion in the process of negotiations;

8. *Requests* the Ad Hoc Committee to report on its work to the General Assembly at its fifty-eighth session;

9. *Decides* to include in the provisional agenda of its fifty-eighth session an item entitled "International convention against human cloning".

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General Assembly

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Fifty-seventh session
Sixth Committee
Agenda item 162
International convention against the reproductive cloning of human beings

Antigua and Barbuda, Argentina, Costa Rica, Dominica, Dominican Republic, El Salvador, Ethiopia, Fiji, Georgia, Grenada, Honduras, Italy, Kenya, Kyrgyzstan, Marshall Islands, Micronesia, Nicaragua, Nigeria, Panama, Paraguay, Philippines, Saint Vincent and the Grenadines, Spain, Suriname, Tajikistan, Timor-Leste, Turkmenistan, Tuvalu, United States of America and Uzbekistan: draft resolution

International convention against human cloning

The General Assembly,

Recalling the Universal Declaration on the Human Genome and Human Rights,[1] adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization on 11 November 1997, and in particular article 11 thereof, which states that practices which are contrary to human dignity, such as the reproductive cloning of human beings, shall not be permitted,

Recalling also its resolution 53/152 of 9 December 1998, by which it endorsed the Universal Declaration on the Human Genome and Human Rights,

Bearing in mind Commission on Human Rights resolution 2001/71 of 25 April 2001, entitled "Human rights and bioethics",[2] adopted at the fifty-seventh session of the Commission,

Mindful of the importance of the development of the life sciences for the benefit of mankind with full respect for the integrity and dignity of the human being,

Mindful also that certain practices pose potential dangers to the integrity and dignity of the individual,

---

[1] United Nations Educational, Scientific and Cultural Organization, *Records of the General Conference, Twenty-ninth Session*, vol. 1, *Resolutions*, resolution 16.

[2] See *Official Records of the Economic and Social Council, 2001, Supplement No. 3* (E/2001/23), chap. II, sect. A.

02-64957 (E) 181002

Concerned at recently disclosed information on research into and attempts at the creation of human beings through cloning processes,

Determined to prevent as a matter of urgency such an attack on the human dignity of the individual,

Conscious of widespread preoccupations that the human body and its parts should not, as such, give rise to financial gain,

Recalling its resolution 56/93 of 12 December 2001, by which it decided to establish an Ad Hoc Committee, open to all States Members of the United Nations or members of specialized agencies or of the International Atomic Energy Agency, for the purpose of considering the elaboration of an international convention against the reproductive cloning of human beings,

Determined to adopt permanent and provisional measures, as appropriate, to prevent potential dangers to the human dignity of the individual,

1. *Welcomes* the report of the Ad Hoc Committee on an International Convention against the Reproductive Cloning of Human Beings on its work from 25 February to 1 March 2002;[3]

2. *Requests* the Ad Hoc Committee to be reconvened from 24 March to 4 April 2003 and prepare, as a matter of urgency, the draft text of an international convention against human cloning, bearing in mind that it will not prohibit the use of nuclear transfer or other cloning techniques to produce DNA molecules, organs, plants, tissues, cells other than human embryos or animals other than humans, and recommends that the work continue during the fifty-eighth session of the General Assembly from 29 September to 3 October 2003 within the framework of a working group of the Sixth Committee;

3. *Also requests* the Ad Hoc Committee, in developing the draft convention, to consider, inter alia, the following indicative elements:

(a) Scope;

(b) Definitions;

(c) The objective;

(d) Implementation;

(e) Preventive measures;

(f) Jurisdiction;

(g) Promotion and strengthening of international cooperation;

(h) Exchange of information;

(i) Mechanisms for monitoring implementation;

4. *Solemnly declares* that, pending the adoption of an international convention against human cloning, States shall not permit any research, experiment, development or application in their territories or areas under their jurisdiction or control of any technique aimed at human cloning;

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[3] *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 51* (A/57/51).

5. *Calls upon* States to adopt such measures as may be necessary to prohibit those techniques of genetic engineering that may have adverse consequences on the respect for human dignity;

6. *Requests* the Secretary-General to provide the Ad Hoc Committee with the necessary facilities for the performance of its work;

7. *Invites* the Ad Hoc Committee to take into consideration the contributions of United Nations agencies and competent international organizations, as well as other relevant bodies of international opinion in the process of negotiations;

8. *Requests* the Ad Hoc Committee to report on its work to the General Assembly at its fifty-eighth session;

9. *Decides* to include in the provisional agenda of its fifty-eighth session an item entitled "International convention against human cloning".

United Nations A/C.6/57/L.4

General Assembly

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30 September 2002

Original: English

Fifty-seventh session
Sixth Committee
Agenda item 162
International convention against the reproductive cloning of human beings

International convention against the reproductive cloning of human beings

Report of the Working Group

Chairman: Mr. Peter **Tomka** (Slovakia)

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I. Introduction

1. The General Assembly, in its resolution 56/93 of 12 December 2001, decided to establish the Ad Hoc Committee on an International Convention against the Reproductive Cloning of Human Beings, to consider the elaboration of a mandate for the negotiation of an international convention against the reproductive cloning of human beings, including a list of the existing international instruments to be taken into consideration and a list of legal issues to be addressed in the convention. It also recommended that the work continue during the fifty-seventh session of the General Assembly from 23 to 27 September 2002, within the framework of a working group of the Sixth Committee.

2. Accordingly, the Sixth Committee, at its 1st meeting of the fifty-seventh session, on 23 September 2002, established such a Working Group and elected Peter Tomka (Slovakia) as its Chairman.

3. Also at its 1st meeting, the Committee decided to open the Working Group to all States members of the United Nations or members of the specialized agencies or of the International Atomic Energy Agency. At its 1st meeting, also on 23 September 2002, the Working Group further noted the intention of the representatives of those specialized agencies that work and have a substantial interest in the field of bioethics, including, in particular, the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the World Health Organization (WHO), to participate as observers in the Working Group.

4. The Working Group held seven meetings, from 23 to 27 September 2002.

5. The Working Group had before it the report of the Ad Hoc Committee on the work of its first session[1] as well as a revised version of the information paper prepared by the Secretariat containing a list of existing international instruments to be taken into consideration (A/AC.263/2002/INF/1/Rev.1). The Working Group also had before it oral and written proposals submitted during its meetings. The texts of the written proposals are contained in annex I to the present report.

6. The Working Group considered and adopted its report at its 7th meeting, on 27 September 2002.

II. Proceedings of the Working Group

7. The Working Group held a general exchange of views at its 1st to 3rd meetings, on 23 and 24 September 2002. Annex II to the present report contains an informal summary of the general exchange of views, prepared by the Chairman. The summary is intended for reference purposes only, and not as an official record of the discussions.

8. The Working Group further decided to hear statements made by representatives of UNESCO, WHO, the Office of the United Nations High Commissioner for Human Rights and the Council of Europe at its 2nd and 3rd meetings, on 24 September 2002.

[1] *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 51* (A/57/51).

9. Discussions were subsequently held both in the Working Group and in informal consultations.

10. At its 6th meeting, on 26 September 2002, the Working Group took note of the invitation by the Republic of Korea to host in 2003 an intersessional expert-level meeting to consider outstanding issues.

Elaboration of a mandate for the negotiation of an international convention against the reproductive cloning of human beings

11. The Working Group considered the question of the elaboration of a mandate for the negotiation of an international convention against the reproductive cloning of human beings at its 3rd to 6th meetings, from 24 to 26 September 2002. The Group considered a new proposal (A/C.6/57/WG.1/CRP.1), which was subsequently revised (A/C.6/57/WG.1/CRP.1/Rev.1), together with an aide-mémoire relating to that proposal (A/C.6/57/WG.1/CRP.1/Add.1), submitted by France and Germany, as well as two proposals submitted by Mexico (A/C.6/57/WG.1/CRP.3 and A/C.6/57/WG.1/CRP.8) and proposals submitted by the Holy See (A/C.6/57/WG.1/CRP.4), Brazil (A/C.6/57/WG.1/CRP.6), the United Kingdom of Great Britain and Northern Ireland (A/C.6/57/WG.1/CRP.7) and China (A/C.6/57/WG.1/CRP.9). The Working Group also had before it a memorandum submitted by Spain (A/C.6/57/WG.1/CRP.2).

12. In addition to the above documents, the following oral drafting suggestions regarding the proposal in document A/C.6/57/WG.1/CRP.1/Rev.1 were made:

(a) Redrafting the tenth preambular paragraph to read:

"... other forms of human cloning including through the elaboration of a comprehensive convention banning all forms of human cloning while considering a convention against the reproductive cloning of human beings as a matter of urgency.";

(b) Deleting operative subparagraph (a) (iv) of paragraph 3;

(c) Replacing the word "penalties" in subparagraph (a) (iv) of operative paragraph 3 with the word "sanctions";

(d) Replacing the word "authorization" in subparagraph (b) of operative paragraph 3 with the word "legalization";

(e) Modifying the final clause in subparagraph (b) of operative paragraph 3 to read "does not imply the authorization of any other form of cloning of human beings for any purpose";

(f) Adding at the end of subparagraph (c) of operative paragraph 3 the following: "or of any other form of cloning of human beings";

(g) Amending the opening phrase in opening paragraph 4 ter to read "*Calls upon* those States which have not yet done so";

(h) Inserting the phrase "in the area of human cloning" after the phrase "an international convention against the reproductive cloning of human beings" in operative paragraph 4 ter;

(i) Replacing operative paragraph 4 ter with the following text:

"*Calls upon* States, pending the entry into force of an international convention against the reproductive cloning of human beings, to adopt at the national level a prohibition of the reproductive cloning of human beings and to control any other forms of cloning of human beings through regulations, moratoria or prohibition;"

13. The following oral suggestions were made in connection with the proposed amendment contained in document A/C.6/57/WG.1/CRP.8:

(a) Replacing the reference to "cloning of human beings" with "human cloning";

(b) Replacing the word "control" with "ban";

(c) Retaining the original reference to "regulations".

III. Recommendations and conclusions

14. At its 7th meeting, on 27 September 2002, the Working Group decided to refer the present report to the Sixth Committee for its consideration and recommended that the Committee continue the consideration of the elaboration of a negotiation mandate during the current session, taking into account the discussions in the Working Group, including the proposals contained in annex I to the present report.

Annex I

Written amendments and proposals submitted by delegations

1. Revised proposal submitted by France and Germany (A/C.6/57/WG.1/CRP.1/Rev.1)

The General Assembly,

Recalling the Universal Declaration on the Human Genome and Human Rights, adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization on 11 November 1997, and in particular article 11 thereof, which states that practices which are contrary to human dignity, such as reproductive cloning of human beings, shall not be permitted,

Recalling also its resolution 53/152 of 9 December 1998, by which it endorsed the Universal Declaration on the Human Genome and Human Rights,

Bearing in mind Commission on Human Rights resolution 2001/71 of 25 April 2001, entitled "Human rights and bioethics", adopted at the fifty-seventh session of the Commission,

***Mindful* of the importance of the development of the life sciences for the benefit of mankind with full respect for the integrity and dignity of the human being,**

Aware that the rapid development of the life sciences opens up tremendous prospects for the improvement of the health of individuals and mankind as a whole, but also that certain practices pose potential dangers to the integrity and dignity of the individual,

Concerned by the seriousness of problems posed by the development of techniques of reproductive cloning of human beings applied to mankind which may have consequences for respect for human dignity,

Particularly concerned, in the context of practices which are contrary to human dignity, at recently disclosed information on research into and attempts at the reproductive cloning of human beings,

Determined to prevent, as a matter of urgency, such an attack on the human dignity of the individual,

Recalling its resolution 56/93 of 12 December 2001, by which it decided to establish an Ad Hoc Committee, open to all States Members of the United Nations or members of specialized agencies or of the International Atomic Energy Agency, for the purpose of considering the elaboration of an international convention against the reproductive cloning of human beings,

***Resolved* to** address issues related to other forms of human cloning **through a step-by-step approach**, including through the elaboration of a separate international instrument, as soon as negotiations on a convention against reproductive cloning of human beings have been concluded,

Bearing in mind that this purpose does not preclude the possibility of States parties adopting stricter national regulations,

Determined **to adopt provisional measures at the national level to prevent potential dangers to the human dignity of the individual pending the adoption and entry into force of an international convention against the reproductive cloning of human beings and any other instrument in the field of cloning of human beings,**

1. *Welcomes* the report of the Ad Hoc Committee on an International Convention against the Reproductive Cloning of Human Beings on its work from 25 February to 1 March 2002;[a]

2. *Requests* the Ad Hoc Committee to prepare, as a matter of urgency **and if possible by the end of 2003**, the draft text of an international convention against the reproductive cloning of human beings;

3. *Also requests* the Ad Hoc Committee, in developing the draft convention,

(a) To consider, inter alia, the following indicative elements:

(i) Scope (as mentioned in paragraph 2 above);

(ii) Definitions;

(iii) Prohibition of the reproductive cloning of human beings;

(iv) National implementation, including penalties;

(v) Preventive measures;

(vi) Jurisdiction;

(vii) Promotion and strengthening of international cooperation, technical assistance;

(viii) Collection, exchange and analysis of information;

(ix) Mechanisms for monitoring implementation;

(b) To specify that the prohibition of the reproductive cloning of human beings does not **imply the authorization of other forms of cloning of human beings**;

(c) To ensure that States parties shall not be prevented from adopting or maintaining stricter regulations on the prohibition of the reproductive cloning of human beings than those contained in the draft convention;

4. *Further requests* the Ad Hoc Committee to take into consideration the relevant existing international instruments;

4 bis. (a) ***Decides*** **that it will favourably consider any proposal to launch negotiations on a further legal instrument on other forms of cloning of human beings as soon as negotiations on a draft international convention prohibiting the reproductive cloning of human beings have been concluded;**

(b) ***Requests*** **the World Health Organization and the United Nations Educational, Scientific and Cultural Organization to start elaborating without delay a joint preparatory document for these negotiations, outlining from a**

[a] *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 51* (A/57/51).

scientific and ethical perspective the issues to be considered, and to submit this document no later than by the end of 2003;

4 ter. *Calls upon* States, pending the entry into force of an international convention against the reproductive cloning of human beings, to adopt at the national level a prohibition of the reproductive cloning of human beings and to control other forms of cloning of human beings through regulations, moratoria or prohibition;

5. *Requests* the Secretary-General to provide the Ad Hoc Committee with the necessary facilities for the performance of its work, to be conducted in two sessions from ..... February 2003 and ..... September 2003;

6. *Invites* the Ad Hoc Committee to take into consideration the contributions of United Nations subsidiary bodies, and to closely involve the United Nations Educational, Scientific and Cultural Organization and the World Health Organization in the process of negotiations;

7. *Requests* the Ad Hoc Committee to report on its work to the General Assembly at its fifty-eighth session;

8. *Decides* to include in the provisional agenda of its fifty-eighth session the item entitled "International convention against the reproductive cloning of human beings".

2. Aide-memoire relating to the proposal submitted by France and Germany in document A/C.6/57/WG.1/CRP.1 (A/C.6/57/WG.1/CRP.1/Add.1)

1. The speed with which advances are being made in the field of biotechnology and gene technology has reached a level scarcely deemed possible not long ago. Almost every day researchers report new insights into the secret of life itself. More than any scientific discovery in the past, these developments raise issues central to our understanding of human life and existence, posing new challenges both for policy makers and for society at large.

2. The stated intention of certain researchers and laboratories to attempt the reproductive cloning of human beings underlines how crucial it is for the international community to develop an effective response to this challenge. The matter of prohibiting the reproductive cloning of human beings has become more urgent since last February. Some scientists have already announced that they have engaged in attempts to generate a cloned child by implanting cloned embryos in women consenting to such a procedure. With every passing day the risk they will accomplish their aims grows greater.

3. In response to this challenge, France and Germany launched a joint initiative in the United Nations General Assembly to draw up an international convention against the reproductive cloning of human beings. Under its resolution 56/93 of 12 December 2001, co-sponsored by 50 States, an Ad Hoc Committee was established to consider the elaboration of such a convention. The first meeting of the Committee was held in New York from 25 February to 1 March 2002.

4. The meeting began with experts providing background information on scientific, ethical, philosophical and legal issues relevant to the reproductive cloning of human beings. The subsequent exchange of views among the various delegations demonstrated the existence of a clear consensus that the reproductive cloning of human beings had far-ranging implications for human dignity and should therefore be banned.

5. Many delegations shared the view of France and Germany that we are in a race against time, since irresponsible researchers are already working on reproductive cloning. Given this situation, it would be both desirable and appropriate for the next meeting of the Ad Hoc Committee to submit to the General Assembly, on the basis of a broad international consensus, a mandate for the elaboration of a convention against reproductive cloning that could then be adopted at the fifty-seventh session of the General Assembly. The negotiations on the text of the convention could then take place in 2003.

6. Some delegations expressed the view that such a convention should address not only reproductive cloning but also other aspects, including therapeutic cloning, arguing that an effective ban on the reproductive cloning of human beings required a ban on all types of cloning, including therapeutic cloning, since the scientific techniques employed were similar in both cases. However, it is important to remember that while there is already an international consensus on the need to ban reproductive cloning, no such consensus exists as far as banning therapeutic cloning or other forms of genetic engineering is concerned. Any attempt to achieve a complete ban would in effect undermine the efforts of the international community to achieve the expeditious drafting of a convention against reproductive cloning. The opportunity to accomplish what can be accomplished before it is too late would be lost. That is something we cannot afford.

7. France and Germany therefore propose that we take a step-by-step approach to these complex bioethical issues, focusing first of all on a ban on the reproductive cloning of human beings, and then at a later stage, by interested States, on measures concerning the regulation of other types of cloning, including through the elaboration of a separate international instrument.

8. Another advantage of such a step-by-step approach would be to make quite clear that a convention against the reproductive cloning of human beings should not be seen as implicitly authorizing all other types of cloning. Hence the work on such a convention would initiate a negotiating process in which other issues would also be addressed. Irrespective of any such process, all countries may opt to regulate all forms of cloning, should they so wish, by means of national legislation.

9. France and Germany do not believe that a prohibition which does not cover cloning for research and therapeutic purposes would necessarily be inefficient, as some delegations asserted during the discussions in the Ad Hoc Committee last February. The efficiency of the proposed convention would be ensured by the obligation on States parties to take appropriate measures to prohibit the reproductive cloning of human beings. Moreover, it would also be possible for States parties to adopt complementary preventive measures.

10. Time is running out, however. It is imperative that the international community develop a fitting response to the issues cloning has raised. That will be possible if at the next session of the Ad Hoc Committee in September we can together agree on

the mandate for the elaboration of the proposed convention banning the reproductive cloning of human beings. Should we fail to do so, it may not be possible to adopt such a convention before it is too late.

11. France and Germany would therefore be grateful if your Government could give instructions to your delegation to the Ad Hoc Committee at its forthcoming session, to be devoted to preliminary work with a view to the elaboration of an international convention against the reproductive cloning of human beings, to support the concept of a mandate for the negotiation of such a convention; limited to that scope, without considering for the time being the issue of the cloning of human beings for research or therapeutic purposes. A draft General Assembly resolution containing such a mandate is enclosed and will be submitted by France and Germany as a working document at the next session of the Ad Hoc Committee.

3. Memorandum submitted by Spain

The Spanish position on the draft international convention on human cloning (A/C.6/57/WG.1/CRP.2)

The first meeting of a group convened to prepare a draft international convention, in the context of the United Nations, to ban human cloning for reproductive purposes, was held in February 2002 at United Nations Headquarters in New York. However, some countries, notably Spain, proposed that the ban should be extended to cover cloning for therapeutic purposes.

The reasons why Spain also proposed a ban on cloning for therapeutic purposes are, among others, the following:

- **Contrary to what is often argued, human cloning for therapeutic purposes also involves experimentation with human embryos and is incompatible with legal and safe scientific research, its aim being to constitute human embryos to be used in research.** In this sense, article 18.2 of the European Convention on Human Rights and Biomedicine (the Oviedo Convention), which was ratified in 1999 by a number of European States and entered into force for Spain in 2000, expressly prohibits "the creation of human embryos for research purposes". The "creation" of a human embryo in order, by destroying it, to obtain embryonic mother cells, makes cloning an example of exploitation of the human embryo.

- **Along these lines, Spain considers that human cloning for any purpose is an unsafe research practice, contrary to human dignity, and is thus expressly prohibited under its internal legislation.** Spain also firmly believes that the partial prohibition of cloning would be deprived of any legal basis, since the concepts legally protected by the prohibition of both reproductive and therapeutic cloning are necessarily the same.

- **It is not possible to monitor the effectiveness of the prohibition on human cloning for reproductive purposes if therapeutic cloning is not also prohibited.** From a juridical standpoint, the prohibition of something must allow for the possibility for it to be monitored and, if applicable, punished. Because the process for reproductive and for therapeutic cloning is the same except for the ultimate purpose, it would be impossible to prevent the former

from occurring if the latter was not prevented at the same time. Only a total prohibition will prevent embryos theoretically destined for research from being implanted for other purposes.

- **A partial prohibition of human cloning would create legal uncertainty.** The promotion of a strategy of partial prohibitions, deferred over time, is not effective and creates legal uncertainty in a field in which the law must move ahead of reality. In matters such as human cloning, involving fundamental values concerning the individual and society, there must be a clear definition of the boundaries of ethical and safe research. In addition, such a definition must be accepted by the greatest possible number of countries. A partial prohibition of cloning would paradoxically have two undesired effects in the domestic law of the countries which accepted it. On the one hand, partial prohibition of human cloning might be interpreted as a tacit acceptance of the form of cloning which is not prohibited and, on the other, would inevitably strengthen a movement in favour of the express authorization of therapeutic cloning.

- **A partial prohibition might give rise to clandestine human cloning for reproductive purposes, with the establishment of an illegal trade in ovules.** At present, the domestic laws of most countries and all international agreements in the field prevent trade in human organs and tissues.

- **Any form of human cloning infringes the principles of prudence and precaution which must govern any scientific research.** It is unacceptable for a given research option to present a hazard to human health, much more so when there are alternative research channels which are safer, as efficient or more so, and respectful of the embryo. All legislation must promote attitudes involving minimized risk. In any event, whenever there are doubts as to the propriety of an action, the legal principle of precaution must ensure the protection of the weaker party, in the present case, the human embryo. Therefore all States, including those that have not yet declared an open opposition to therapeutic cloning, must support a total international ban on human cloning. This will prove necessary at least until all alternative research practices have been tried out and possible doubts have been cleared up as to its advisability and safety, in application of the precautionary principle.

- **In terms of practical experience, the results of animal cloning experiments reinforce the need to prohibit any form of human cloning.** The experience gained in animal cloning has made clear the very limited efficacy of the techniques used and the considerable risks of embryonic malformation and deformation. According to the most recent and prestigious research, there is an unknown risk that therapeutic cloning will generate cell lines hazardous to human health, giving rise to cancerous diseases and genetic anomalies. It is possible to generate cloned embryonic mother cells carrying unknown genetic anomalies which would be incorporated into the tissues and organs of patients undergoing regenerative therapies.

- **Opposition to human cloning does not amount to denying advances in science or genetic research.** Cloning is not the only research strategy for the development of regenerative medicine: research using adult mother cells not only presents itself as a safer alternative, respectful of the embryo, but is already yielding very relevant results.

- **Research using adult mother cells has had some clinical application and has opened up enormous opportunities.** Bone marrow cells have been used for years for blood cell regeneration and the possibility has recently been discovered of regenerating different tissue types from adult mother cells. There have also been important discoveries relating to the capacity of adult mother cells to multiply and separate into the most varied cell types. Support for this type of research would make it possible to advance knowledge on the processes of human cell reprogramming.

- **Research using adult mother cells is safer**, and free from the two main drawbacks of research using embryonic mother cells, that is their excessive multiplication capacity, with the risk of tumours, and the patient's greater likelihood of immune rejection. In purely scientific terms, the option of using adult mother cells in regenerative medicine is more desirable than that of using embryonic mother cells, with the concomitant reduced risk of tumours and immune rejection.

- **Generalized support for adult mother-cell research would help in taking the fullest advantage of it and would demonstrate its efficacy.** A total prohibition of human cloning, even for a reasonable period of time, will allow scientific and human resources to be more concentrated on safer lines of biotechnological research, avoiding the ethical and juridical conflicts referred to above.

4. Proposal submitted by Mexico (A/C.6/57/WG.1/CRP.3)

Preambular paragraphs

Mindful of the importance of the development of the life sciences for the benefit of mankind with full respect for the integrity and dignity of the human being,

Determined to adopt provisional measures to prevent potential dangers to the human dignity of the individual pending the adoption and entry into force of an international convention against the cloning of human beings,

Operative paragraphs

Solemnly declares that, pending the adoption of an international convention against the cloning of human beings, States shall not permit any research, experiment, development or application in their territories or areas under their jurisdiction or control of any technique aimed at the cloning of human beings;

Calls upon States to adopt such measures as may be necessary to prohibit other techniques of genetic engineering that may have adverse consequences on the respect for human dignity.

5. Proposal submitted by the Holy See containing a synthesis of the Franco-German (A/C.6/57/WG.1/CRP.1) and Mexican (A/C.6/57/WG.1/CRP.3) proposals, as modified by State interventions (A/C.6/57/WG.1/CRP.4)

The General Assembly,

Recalling the Universal Declaration on the Human Genome and Human Rights, adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization on 11 November 1997, and in particular article 11 thereof, which states that practices which are contrary to human dignity, such as the reproductive cloning of human beings, shall not be permitted,

Recalling also its resolution 53/152 of 9 December 1998, by which it endorsed the Universal Declaration on the Human Genome and Human Rights,

Bearing in mind Commission on Human Rights resolution 2001/71 of 25 April 2001, entitled "Human rights and bioethics", adopted at the fifty-seventh session of the Commission,

Mindful of the importance of the development of the life sciences for the benefit of mankind with full respect for the integrity and dignity of the human being,

Determined to adopt the necessary measures to prevent potential dangers to the dignity of human beings pending the adoption and entry into force of an international convention against the cloning of human beings,

Recalling its resolution 56/93 of 12 December 2001, by which it decided to establish an Ad Hoc Committee, open to all States Members of the United Nations or members of specialized agencies or of the International Atomic Energy Agency, for the purpose of considering the elaboration of an international convention against the reproductive cloning of human beings,

Bearing in mind that this purpose includes a comprehensive ban on all forms of human cloning, considering the fact that all forms of human cloning are in essence reproductive,

Bearing in mind also that this purpose does not preclude the possibility of States adopting additional national regulations,

1. *Welcomes* the report of the Ad Hoc Committee on an International Convention against the Reproductive Cloning of Human Beings on its work from 25 February to 1 March 2002;[b]

2. *Strongly encourages* States and other entities to direct funds which might have been used for human cloning technologies to pressing global issues in developing countries such as famine and drought, infant mortality, and diseases, including HIV/AIDS;

3. *Calls upon* States, pending the entry into force of an international convention against the cloning of human beings, to prohibit any research, experiment, development or application in their territories or areas under their jurisdiction or control of any technique aimed at the cloning of human beings;

[b] *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 51* (A/57/51).

4. *Decides* to include in the provisional agenda of its ___ session an item entitled "International legal issues related to human cloning".

6. Proposal submitted by Brazil concerning the revised proposal submitted by France and Germany in document A/C.6/57/WG.1/CRP.1/Rev.1 (A/C.6/57/WG.1/CRP.6)

The General Assembly,

Recalling the Universal Declaration on the Human Genome ...

...

3. *Requests* the Ad Hoc Committee, in developing the draft convention,

(a) To consider, inter alia, the following indicative elements:

...

(vii) Promotion and strengthening of international cooperation and technological assistance for the development and improvement of alternative technologies with the use of adult stem cells;

...

4. *Requests* an appropriate subsidiary body of the United Nations to prepare an in-depth study addressing, inter alia:

(i) The current state of the art of the human cloning technologies;

(ii) The possible dual use of the existing non-human cloning techniques; and

(iii) Issues involving intellectual property rights in the genomic area and the development of alternative technologies using adult stem cells;

...

6. *Invites* the Ad Hoc Committee to take into consideration the contributions of subsidiary bodies of the United Nations and to closely involve the United Nations Educational, Scientific and Cultural Organization, the World Health Organization, the United Nations Conference on Trade and Development and the Economic and Social Council in the process of negotiations;

7. United Kingdom proposal to the revised proposal to be submitted by France and Germany in document A/C.6/57/WG.1/CRP.1/Rev.1 (A/C.6/57/WG.1/CRP.7)

Tenth preambular paragraph

Amend the paragraph to read:

"... through a step-by-step approach, including the **possibility of the** elaboration ..."

Twelfth preambular paragraph

Amend the paragraph to read:

"... potential dangers **to** the human dignity ..."

Paragraph 4 bis (a)

Amend the subparagraph to read:

"*Decides* that it will **carefully** consider, **as a priority, proposals for the most appropriate international approach to** other forms of cloning of human beings, **including by the elaboration of** a further legal instrument, as soon as ..."

Paragraph 4 bis (b)

Amend the subparagraph to read:

"... preparatory document **to inform those considerations**, outlining from a scientific and ethical perspective the **relevant** issues, and to submit ..."

8. Proposal by Mexico regarding the revised French-German proposal in document A/C.6/57/WG.1/CRP.1/Rev.1 (A/C.6/57/WG.1/CRP.8)

Paragraph 4 ter

... to control other forms of cloning of human beings **that are contrary to human dignity** through ~~regulations,~~ moratoria or prohibition;

9. Proposal submitted by China regarding the revised French-German proposal in document A/C.6/57/WG.1/CRP.1/Rev.1 (A/C.6/57/WG.1/CRP.9)

Paragraph 3 (b)

To specify that the prohibition of the reproductive cloning of human beings does not imply the **endorsement** of other forms of the cloning of human beings;

Annex II

Informal summary of the general discussion in the Working Group, prepared by the Chairman

1. All speakers expressed their firm opposition to the reproductive cloning of human beings. It was observed that the reproductive cloning of human beings raised ethical, moral, religious, scientific and other concerns and had far-reaching implications for human dignity. Some speakers were equally opposed to both therapeutic and experimental cloning. As regards the approach to be taken, there were different views.

2. Some delegations supported as a priority the elaboration of an international convention that would ban the reproductive cloning of human beings. It was noted that it was vital for the international community to send a clear message that the reproductive cloning of human beings was unethical, intolerable and illegal. Those delegations supported a step-by-step approach that would address first the reproductive cloning of human beings and then therapeutic cloning. It was noted that that approach was both pragmatic and principled as it recognized the concerns, complex issues and conflicting views associated with therapeutic and experimental cloning and reflected the fundamental point of consensus that reproductive cloning was morally unacceptable. Several of those delegations noted that work on the cloning of human beings was currently taking place, which made it urgent to elaborate an international convention against reproductive cloning as soon as possible. It was emphasized that such a convention would not preclude the adoption at the national level of stricter standards, nor would it imply tacit acceptance of other forms of cloning. It was also noted that, in view of the lack of a consensus on therapeutic cloning, it would be difficult to elaborate a comprehensive convention swiftly, and therefore it would be unwise to attempt to include therapeutic cloning at the first stage. It was suggested that therapeutic cloning could be the subject at later stage of a protocol to the convention or of a separate convention.

3. Some other delegations supported a comprehensive ban in an international convention of both the reproductive cloning of human beings and cloning for therapeutic and experimental purposes. These delegations could not agree on only a partial ban on the reproductive cloning of human beings since it would be ineffective if therapeutic cloning was not likewise prohibited, since the technology was essentially the same. It would also send the wrong signal to the international community as it would implicitly authorize the creation and destruction of human embryos for experimentation. It was noted that a partial ban on cloning would also create legal uncertainty. The view was expressed that the distinction between reproductive and therapeutic or experimental cloning masked the reality that a human being was being created for the purposes of destroying it to produce embryonic stem cell lines or to carry out other experimentation. It was noted that those techniques raised profound ethical and moral questions and were highly controversial. The view was also expressed that, regardless of its objective, human embryonic cloning conflicted with the international legal norms that protected human dignity. It was also observed that other cloning techniques existed that did not raise any moral or ethical concerns and that, in particular, adult stem cell research did not pose a problem and would not be covered by a comprehensive ban.

4. Some delegations noted that therapeutic cloning of embryonic stem cells might offer potential medical benefits and that it would be unwise to hastily close off any promising avenue of medical science before mankind had the benefit of properly understanding it. It was further noted that it was unclear whether adult stem cell research yielded the same benefits for medical science as embryonic stem cells.

5. Alternative approaches were also proposed. In that context, the suggestion was made for a moratorium pending the entry into force of a convention against the reproductive cloning of human beings. Another approach proposed a permanent ban on reproductive cloning and a temporary ban of a maximum of five years on therapeutic cloning so as to enable the international community to consider changes in standards and relevant scientific developments over time. A suggestion was also made to proceed with a ban on reproductive cloning on the basis of a "fast-track approach", given the urgency of the matter, and at the same time to proceed with work on therapeutic and experimental cloning on the basis of a "slower-track approach". A further suggestion was for a two-tiered approach involving the elaboration of a convention that would focus on the reproductive cloning of human beings and also contain provisions on other human cloning activities such as therapeutic or experimental cloning that Contracting Parties would be able to opt in or opt out of when signing or ratifying the convention or at any time thereafter.

6. Several delegations made reference to efforts being undertaken at the domestic level to regulate or ban human embryonic cloning.

7. As regards any future work in the area, some delegations noted the importance of defining basic terms. A suggestion was also made that, with regard to a future international monitoring mechanism, a necessary component should be the establishment of an international cloning commission, whose task would be to follow the progress in scientific and biotechnological developments in the field of genetic and reproductive medicine in order to provide a comparative updated study of trends in the field and their implications. It was also noted that a crucial element in ensuring the adoption of a convention and its effective implementation was the promotion of international cooperation geared towards alternative technologies, such as adult stem cell research, for developing countries. To that end, a future international convention should include references to fostering alternative technologies, capacity-building and the setting up of international research networks.

United Nations A/C.6/57/L.5

General Assembly

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2 October 2002

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Fifty-seventh session
Sixth Committee
Agenda item 22 (h)
Cooperation between the United Nations and regional and other organizations: Cooperation between the United Nations and the Inter-Parliamentary Union

Andorra, Austria, Belgium, Burkina Faso, Cameroon, Chile, Cuba, Cyprus, Czech Republic, France, Germany, Guatemala, Hungary, Iran (Islamic Republic of), Japan, Malaysia, Mali, Morocco, Namibia, Netherlands, New Zealand, Norway, Philippines, Poland, Romania, Senegal, Slovakia, South Africa, Sweden, Switzerland, Uruguay and Venezuela: draft resolution

Observer status for the Inter-Parliamentary Union in the General Assembly

The General Assembly,

Recalling its decision 49/426 of 9 December 1994,

Considering the unique status of the Inter-Parliamentary Union as a world organization of parliaments,

Wishing to promote cooperation between the United Nations and the Inter-Parliamentary Union,

1. *Decides* to invite the Inter-Parliamentary Union to participate in the sessions and the work of the General Assembly in the capacity of observer;

2. *Requests* the Secretary-General to take the necessary action to implement the present resolution.

02-61709 (E) 031002

United Nations A/C.6/57/L.6

General Assembly

Distr.: Limited
2 October 2002
English
Original: Chinese and English

Fifty-seventh session
Sixth Committee
Agenda item 165
Observer status for the Asian Development Bank in the General Assembly

Australia, Cambodia, China, India, Indonesia, Iran (Islamic Republic of), Japan, Lao People's Democratic Republic, Malaysia, Philippines, Republic of Korea and Viet Nam: draft resolution

Observer status for the Asian Development Bank in the General Assembly

The General Assembly,

Wishing to promote cooperation between the United Nations and the Asian Development Bank,

1. *Decides* to invite the Asian Development Bank to participate in the sessions and the work of the General Assembly in the capacity of observer;

2. *Requests* the Secretary-General to take the necessary action to implement the present resolution.

02-61721 (E) 031002

United Nations A/C.6/57/L.7

General Assembly

Distr.: Limited
2 October 2002

Original: English

Fifty-seventh session
Sixth Committee
Agenda item 166
Observer status for the International Centre for Migration Policy Development in the General Assembly

Austria, Denmark, Hungary, Netherlands, Poland, Slovakia, Spain, Sweden and Switzerland: draft resolution

Observer status for the International Centre for Migration Policy Development in the General Assembly

The General Assembly,

Wishing to promote cooperation between the United Nations and the International Centre for Migration Policy Development,

1. *Decides* to invite the International Centre for Migration Policy Development to participate in the sessions and the work of the General Assembly in the capacity of observer;

2. *Requests* the Secretary-General to take the necessary action to implement the present resolution.

02-61909 (E) 031002

United Nations A/C.6/57/L.8

General Assembly

Distr.: Limited
8 October 2002
English
Original: English and French

Fifty-seventh session
Sixth Committee
Agenda item 162
International convention against the reproductive cloning of human beings

Belarus, Belgium, Brazil, Canada, China, Cuba, Denmark, Finland, France, Germany, Greece, Hungary, Japan, Latvia, Liechtenstein, Luxembourg, Norway and Switzerland: draft resolution

International convention against the reproductive cloning of human beings

The General Assembly,

Recalling the Universal Declaration on the Human Genome and Human Rights,[1] adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization on 11 November 1997, and in particular article 11 thereof, which states that practices which are contrary to human dignity, such as reproductive cloning of human beings, shall not be permitted,

Recalling also its resolution 53/152 of 9 December 1998, by which it endorsed the Universal Declaration on the Human Genome and Human Rights,

Bearing in mind Commission on Human Rights resolution 2001/71 of 25 April 2001 entitled "Human rights and bioethics", adopted by the Commission at its fifty-seventh session,

Mindful of the importance of the development of the life sciences for the benefit of mankind, with full respect for the integrity and dignity of the human being,

Aware that the rapid development of the life sciences opens up tremendous prospects for the improvement of the health and the restoration of human dignity of individuals and mankind as a whole, but also that certain practices pose potential dangers to the integrity and dignity of the individual,

[1] United Nations Educational, Scientific and Cultural Organization, *Records of the General Conference, Twenty-ninth session*, vol. I, *Resolutions*, resolution 16.

02-62577 (E) 081002 081002

Concerned by the seriousness of problems posed by the development of techniques of reproductive cloning of human beings applied to mankind, which may have consequences for respect for human dignity,

Particularly concerned, in the context of practices that are contrary to human dignity, at recently disclosed information on research into and attempts at the reproductive cloning of human beings,

Determined to prevent, as a matter of urgency, such an attack on the human dignity of the individual,

Recalling its resolution 56/93 of 12 December 2001, by which it decided to establish an Ad Hoc Committee, open to all States Members of the United Nations or members of specialized agencies or of the International Atomic Energy Agency, for the purpose of considering the elaboration of an international convention against the reproductive cloning of human beings,

Resolved to address issues related to other forms of human cloning, including through the elaboration of an appropriate separate international instrument, as soon as negotiations on a convention against the reproductive cloning of human beings have been concluded,

Bearing in mind that this purpose does not preclude the possibility of States parties adopting stricter national regulations,

Determined to adopt provisional measures at the national level to prevent potential dangers to the human dignity of the individual pending the adoption and entry into force of an international convention against the reproductive cloning of human beings and any other instrument in the field of cloning of human beings,

1. *Welcomes* the report of the Ad Hoc Committee on an International Convention against the Reproductive Cloning of Human Beings on its work from 25 February to 1 March 2002;[2]

2. *Decides* that the Ad Hoc Committee shall be reconvened from ___to ___ February and from ___ to ___ September 2003 in order to prepare, as a matter of urgency and if possible by the end of 2003, a draft international convention against the reproductive cloning of human beings;

3. Requests the Ad Hoc Committee, in developing the draft convention:

(a) To consider, inter alia, the following indicative elements: scope, definitions, prohibition of reproductive cloning of human beings, national implementation, including penalties and preventive measures, jurisdiction, promotion and strengthening of international cooperation and technical assistance, collection, exchange and analysis of information and mechanisms for monitoring implementation;

(b) To specify that the prohibition of reproductive cloning of human beings does not imply the endorsement of any other form of cloning of human beings for any purpose;

[2] *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 51* (A/57/51).

(c) To ensure that States parties shall not be prevented from adopting or maintaining stricter regulations on the prohibition of cloning of human beings than those contained in the draft convention;

4. *Requests* the Ad Hoc Committee to take into consideration the relevant existing international instruments;

5. *Decides* that it will consider, as a priority, proposals to address issues related to other forms of cloning of human beings, including one or more appropriate separate international instruments, as soon as negotiations on a draft international convention prohibiting the reproductive cloning of human beings have been concluded;

6. *Invites*, to that end, the World Health Organization and the United Nations Educational, Scientific and Cultural Organization to start elaborating, without delay, in close cooperation with the appropriate United Nations bodies, a joint preparatory document outlining from a scientific and ethical perspective the relevant issues to be considered, inter alia, the current state of the art of the human cloning technologies and the possible dual use of the existing non-human cloning techniques, and to submit this document no later than the end of 2003;

7. *Calls upon* those States which have not yet done so, pending the entry into force of an international convention against the reproductive cloning of human beings and their becoming party thereto, to adopt at the national level a prohibition of reproductive cloning of human beings;

8. *Also calls upon* those States which have not yet done so to adopt at the national level a moratorium on or a prohibition of, other forms of cloning of human beings that are contrary to human dignity;

9. *Requests* the Secretary-General to provide the Ad Hoc Committee with the facilities necessary for the performance of its work;

10. *Invites* the Ad Hoc Committee to take into consideration the contributions of United Nations bodies and to closely involve the United Nations Educational, Scientific and Cultural Organization, the World Health Organization and the United Nations Conference on Trade and Development in the process of negotiations;

11. *Requests* the Ad Hoc Committee to report on its work to the General Assembly at its fifty-eighth session;

12. *Decides* to include in the provisional agenda of its fifty-eighth session the item entitled "International convention against the reproductive cloning of human beings".

United Nations A/C.6/57/L.9

General Assembly

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16 October 2002

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Fifty-seventh session
Sixth Committee
Agenda item 160
Measures to eliminate international terrorism

Measures to eliminate international terrorism

Report of the Working Group

Chairman: Mr. Rohan **Perera** (Sri Lanka)

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I. Introduction

1. The General Assembly, in its resolution 56/88 of 12 December 2001, decided that the Ad Hoc Committee established by resolution 51/210 of 17 December 1996 should meet from 28 January to 1 February 2002 to continue the elaboration of a draft comprehensive convention on international terrorism, with appropriate time allocated to the continued consideration of outstanding issues relating to the elaboration of a draft international convention for the suppression of acts of nuclear terrorism, and that it should keep on its agenda the question of convening a high-level conference under the auspices of the United Nations to formulate a joint organized response of the international community to terrorism in all its forms and manifestations. The Assembly also decided that the work should continue, if necessary, during the fifty-seventh session of the General Assembly, within the framework of a working group of the Sixth Committee. In turn, the Ad Hoc Committee, at its 26th meeting, on 1 February 2002, decided to recommend that the Sixth Committee, at the fifty-seventh session of the General Assembly, should consider establishing such a working group.[1]

2. Accordingly, the Sixth Committee, at its 11th meeting, on 7 October 2002, established a Working Group and elected Mr. Rohan Perera (Sri Lanka) as its Chairman. At the same meeting, the Committee decided to open the Working Group to all States Members of the United Nations or members of the specialized agencies or of the International Atomic Energy Agency.

3. The Working Group held two meetings, on 15 and 16 October 2002.

4. The Working Group had before it the report of the Ad Hoc Committee on the work of its sixth session[2] containing, inter alia, a discussion paper prepared by the Bureau of the Ad Hoc Committee on the preamble and article 1 of the draft comprehensive convention;[3] a list of proposals made during the informal consultations on the preamble and article 1 appended to the report of the Coordinator on the results of the informal consultations in the Ad Hoc Committee;[4] the informal texts of articles 2 and 2 bis, prepared by the Coordinator;[5] the texts of articles 3 to 17 bis and 20 to 27 prepared by the Friends of the Chairman;[6] as well as two texts of article 18, one circulated by the Coordinator for discussion and the other proposed by the Member States of the Organization of the Islamic Conference.[7] The Working Group also had before it the report of the Working Group of the Sixth Committee issued at the fifty-third session of the General Assembly,[8] containing a revised text of the draft international convention for the suppression of acts of nuclear terrorism prepared by the Friends of the Chairman.[9]

5. Annex I.A to the present report contains a list of written amendments and proposals submitted at the sixth session of the Ad Hoc Committee in connection with the elaboration of a draft comprehensive convention on international terrorism. Annex I.B contains a list of written amendments and proposals submitted by delegations to the Working Group of the Sixth Committee at the fifty-sixth session of the General Assembly in connection with the elaboration of a draft comprehensive convention on international terrorism. Annex I.C contains a list of written proposals submitted by delegations to the Working Group of the Sixth Committee at the fifty-sixth session of the General Assembly in connection with the elaboration of a draft international convention for the suppression of acts of nuclear terrorism.

6. The Working Group considered its report and adopted it at its 2nd meeting, on 16 October.

II. Proceedings of the Working Group

7. At its 1st meeting, on 15 October, the Working Group decided to proceed with discussions in informal consultations. Mr. Richard Rowe of Australia acted as Coordinator of the informal consultations. They were held in two stages: the first focused on the draft comprehensive convention, and the second on the outstanding issues pertaining to the draft international convention for suppression of acts of nuclear terrorism. At the 2nd meeting, on 16 October, the Coordinator presented an oral report on the results of informal consultations on both draft conventions. The Coordinator's report, which is intended for reference purposes only and not as a record of the discussions, is contained in annex II to the present report.

A. Elaboration of a comprehensive convention on international terrorism

8. The Working Group continued its work on the elaboration of a draft comprehensive convention on international terrorism. The texts of article 18,[10] and the preamble and article 1,[11] as well as the texts of articles 2 and 2 bis,[12] were reviewed in informal consultations.

9. At the 1st meeting of the Working Group, the Chairman urged delegations to exert all efforts to reach a consensus on the outstanding issues pertaining to the draft comprehensive convention on international terrorism. At the 2nd meeting of the Working Group, the Coordinator presented an oral report to the Working Group.

B. Elaboration of a draft international convention for the suppression of acts of nuclear terrorism

10. At the 1st meeting of the Working Group, the Chairman recalled that most of the text of the draft international convention for the suppression of acts of nuclear terrorism had substantially been completed, with the question of the scope of the convention remaining unresolved, and urged delegations, in a spirit of compromise, to seek a resolution of the outstanding matters pertaining to the instrument.

11. Discussions on the draft convention were held in informal consultations. At the 2nd meeting of the Working Group, the Coordinator presented an oral report to the Working Group.

C. Question of convening a high-level conference under the auspices of the United Nations to formulate a joint organized response of the international community to terrorism in all its forms and manifestations

12. At the 1st meeting of the Working Group, the Chairman recalled that several speakers had referred to this matter during the debate on the item "Measures to

eliminate international terrorism" in the Sixth Committee and invited all interested delegations to approach him with any concrete proposals they might have on the issue.

III. Recommendations and conclusions

13. At its 2nd meeting, the Working Group decided to refer the consideration of the present report to the Sixth Committee. The Working Group also decided, bearing in mind resolution 56/88, to recommend to the Sixth Committee that work should continue with the aim of finalizing the text of a draft comprehensive convention on international terrorism and the text of a draft international convention for the suppression of acts of nuclear terrorism, building upon the work accomplished during the meetings of the Working Group.

Notes

[1] *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 37* (A/57/37), para. 20.

[2] *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 37* (A/57/37).

[3] Ibid., annex I.

[4] Ibid., annex VI, appendix.

[5] Ibid., annex II.

[6] Ibid., annex III.

[7] Ibid., annex IV.

[8] A/C.6/53/L.4.

[9] Ibid., annex I.

[10] See *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 37* (A/57/37), annex IV.

[11] Ibid., annex I.

[12] Ibid., annex II.

Annex I

A. List of written amendments and proposals submitted at the sixth session of the Ad Hoc Committee established by General Assembly resolution 51/210 of 17 December 1996 in connection with the elaboration of a draft comprehensive convention on international terrorism[a]

Country	*Symbol*	*Subject*
1. Bureau	A/57/37,[b] annex I	Discussion paper on the preamble and article 1
2. Coordinator	A/57/37, annex II	Informal texts of articles 2 and 2 bis
3. Friends of the Chairman	A/57/37, annex III	Texts of articles 3 to 17 bis and 20 to 27
4. Coordinator	A/57/37, annex IV	Text relating to article 18
5. Member States of the Organization of the Islamic Conference	A/57/37, annex IV	Text relating to article 18

[a] It is understood that further consideration will be given to these written amendments and proposals, together with all other written and oral proposals, in future discussions, including on outstanding issues.

[b] Report of the Ad Hoc Committee to the General Assembly at its fifty-seventh session; full reference: *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 37* (A/57/37).

B. List of written amendments and proposals submitted by delegations to the Working Group of the Sixth Committee at the fifty-sixth session of the General Assembly in connection with the elaboration of a draft comprehensive convention on international terrorism[a]

Country	*Symbol*	*Subject*
1. Guatemala	A/C.6/56/WG.1/CRP.1 and Corr.1	Revised version of document A/C.6/56/L.2; additional article (provisionally numbered 22A)
2. Hungary	A/C.6/56/WG.1/CRP.2	Article 2
3. Friends of the Chairman	A/C.6/56/WG.1/CRP.3	Revised texts of articles 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 17 bis, 20 and 22
4. Colombia	A/C.6/56/WG.1/CRP.4	New first preambular paragraph
5.	A/C.6/56/WG.1/CRP.5 and Add.1-5	Draft report of the Working Group
6. Holy See	A/C.6/56/WG.1/CRP.6	Article 10, para. 4 bis
7. Holy See	A/C.6/56/WG.1/CRP.8[b]	Article 12

[a] It is understood that further consideration will be given to these written amendments and proposals, together with all other written and oral proposals, in future discussions, including on outstanding issues.

[b] Document A/C.6/56/WG.1/CRP.7 was withdrawn.

C. List of written amendments and proposals submitted by delegations to the Working Group of the Sixth Committee at the fifty-sixth session of the General Assembly in connection with the elaboration of a draft international convention for the suppression of acts of nuclear terrorism[a]

Country	*Symbol*	*Subject*
Mexico	A/C.6/56/WG.1/CRP.9	Article 4

[a] It is understood that further consideration will be given to these written amendments and proposals, together with all other written and oral proposals, in future discussions, including on outstanding issues.

Annex II

Report of the Coordinator on the results of the informal consultations

1. I wish to report to the Committee, in my capacity as Coordinator, on the informal consultations that I chaired on 15 and 16 October 2002, concerning article 18, the preamble, articles 1, 2 and 2 bis of the draft comprehensive convention on international terrorism, and concerning the draft international convention for the suppression of acts of nuclear terrorism.

2. The aim of the consultations was to review the situation in relation to outstanding issues and to ascertain if there was a possibility of resolving differences. As Coordinator, I emphasized the importance of not reopening the texts on which there was already a large measure of agreement. I also noted that, as was clearly indicated in the relevant documents, the texts which had been developed in October 2001 and in January and February 2002 represented the stage reached in our work and that further consideration would be given to them. The importance of a "package approach" to resolving the outstanding issues was also recognized.

A. Draft comprehensive convention on international terrorism

Article 18

3. In relation to this key article, which deals with the savings clause and exclusions from the scope of the convention, delegations had before them two texts of a draft article for consideration, one which I had prepared as Coordinator at the end of the October 2001 session of the Working Group of the Sixth Committee and another proposed by the member States of the Organization of the Islamic Conference. As at the informal consultations held within the framework of the Ad Hoc Committee in January and February 2002, the key issues on which discussion focused are reflected in paragraphs 2 and 3 of the drafts, namely: (a) in paragraph 2, whether to refer to the activities of "armed forces" or of "the Parties" during an armed conflict, and whether to insert the words "including in situations of foreign occupation" in that paragraph; and (b) in paragraph 3, whether to refer to excluding the activities undertaken by the military forces of a State in the exercise of their official duties by using the words "inasmuch as they are governed by other rules of international law" or the words "in conformity with international law".

4. Views were expressed by delegations in support of the various formulations, but there was no consensus on what the texts should be. Accordingly, it will be necessary to continue consultations on those two paragraphs. I suggest that we continue to use as the basis for our future work the two texts that we had before us during the current informal consultations.

Preamble

5. The focus of discussion on the preamble was primarily on the proposals appended to my report on the informal consultations held in January and February 2002 (A/57/37, annex VI, appendix). Different views were expressed in relation to the specific proposals. Several delegations considered that the text of the preamble as contained in the draft convention presented by India would be adequate and

should be adopted. Other delegations indicated that they wished to keep all the proposals contained in the appendix open for discussion.

Article 1

6. Two specific proposals were discussed: (a) to add a reference in paragraph 4 to the environment and endangering of natural resources; and (b) to insert the words "whose existence is legal or legitimate" after the words "facility or conveyance"[a] in paragraph 1. Different views were expressed on these proposals.

Article 2

7. In view of the extensive consideration that had already been given at earlier stages of our work, which had resulted in the elaboration of a draft article, there was no substantive discussion on the text during the current informal consultations. At the same time it was recognized that the text for the draft article might be subject to further consideration at a later stage. Some delegations noted that the acceptability of the text for this article would depend on the final wording agreed for article 18.

Article 2 bis

8. Several delegations indicated that they wished to discuss the proposed text for this article as contained in annex II of document A/57/37. I noted that this text, produced following intensive consultations at the October session of the Working Group, seemed to enjoy wide support at that time. In the discussions of the text during the current informal consultations, delegations indicated that they attached importance to having a clear and unambiguous expression of the relationship between the comprehensive convention and the sectoral conventions included in the text of the comprehensive convention. While some delegations indicated that their preference was not to have any article on the relationship, they also indicated they would be prepared to consider an appropriate formulation. Several delegations also noted that the acceptability of the text for this article would depend on the final wording agreed for article 18. The discussion of article 2 bis was particularly constructive and I share the view expressed by a number of delegations that we should be able to arrive at a mutually acceptable formulation.

B. Draft international convention for the suppression of acts of nuclear terrorism

9. The reference document for the informal consultations on the draft convention was the revised text proposed by the Friends of the Chairman in October 1998,[b] which was based on a draft text presented by the Russian Federation. I recalled that at the October session of the Working Group of the Sixth Committee there had been a comprehensive exchange of views on the principal outstanding issues relating to the scope of application of the convention [draft article 4], and that the positions of delegations on those issues were well known. I also noted that at the informal consultations in January and February 2002 there had been consideration of the proposal put forward by Mexico relating to the scope article, to the effect that: "This

[a] A/AC.252/2002/CRP.1/Add.1.

[b] See A/C.6/53/L.4.

convention does not address, nor can it be interpreted as addressing, in any way, the issue of the legality of the use or threat of use of nuclear weapons by States". I also noted that a proposal had been made in relation to the dumping of radioactive waste material. These represented the outstanding matters that needed to be discussed and resolved.

10. Some delegations said that they could support the text of draft article 4 as contained in the draft convention. Other delegations said that they could not accept the reference in paragraph 2 of that draft article to "the activities undertaken by military forces of a State in the exercise of their official duties". While some delegations expressed strong support for the proposal put forward by Mexico, other delegations said that they could not support the inclusion of that proposal in the draft convention. Several delegations emphasized that this convention was primarily intended to assist law enforcement authorities in combating terrorism and was not an arms control instrument. There was no substantive discussion on the proposal relating to the dumping of radioactive waste material.

11. The importance of finalizing this convention was noted by several delegations. Some delegations noted that reaching agreement on article 18 of the draft comprehensive convention would be conducive to finalizing the convention for the suppression of acts of nuclear terrorism.

C. Conclusion

12. I wish to thank all delegations for their cooperation and for participating so constructively in discussion of the issues addressed in the informal consultations. We have increased our understanding of the position of delegations on outstanding issues and confirmed where we need to focus our efforts. The key issue in relation to the comprehensive convention which has to be resolved continues to be the text of article 18. If we can reach agreement on this article, I believe that we should be able to find solutions for the other pending articles. Agreement of this article should also facilitate finalization of the convention for the suppression of acts of nuclear terrorism.

United Nations A/C.6/57/L.10

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Fifty-seventh session
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Agenda item 159
Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization

Draft resolution

Prevention and peaceful settlement of disputes

The General Assembly,

Recalling the purposes and principles of the Charter of the United Nations,

Recalling also Chapter VI of the Charter of the United Nations, in particular Article 33, and underlining the obligation of Member States to seek a solution to their disputes by peaceful means of their own choice,

Recalling further the principles in the United Nations Millennium Declaration[1] and the Declaration of the Security Council on Ensuring an Effective Role for the Security Council in the Maintenance of International Peace and Security, particularly in Africa,[2] adopted during the United Nations Millennium Summit,

Recalling the Manila Declaration on the Peaceful Settlement of International Disputes,[3] the Declaration on the Prevention and Removal of Disputes and Situations Which May Threaten International Peace and Security and on the Role of the United Nations in this Field,[4] the Declaration on Fact-finding by the United Nations in the Field of the Maintenance of International Peace and Security,[5] the Declaration on the Enhancement of Cooperation between the United Nations and Regional Arrangements or Agencies in the Maintenance of International Peace and Security,[6] and the United Nations Model Rules for the Conciliation of Disputes between States,[7] elaborated by the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization and adopted unanimously by the General Assembly,

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[1] Resolution 55/2.
[2] Security Council resolution 1318 (2000), annex.
[3] Resolution 37/10, annex.
[4] Resolution 43/51, annex.
[5] Resolution 46/59, annex.
[6] Resolution 49/57, annex.
[7] Resolution 50/50, annex.

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Noting with appreciation the work done by the Special Committee on the Charter to encourage States to focus on the need to prevent and to settle peacefully their disputes, which are likely to endanger the maintenance of international peace and security,

Emphasizing the importance of early warning in order to prevent disputes, and emphasizing also the need to promote the peaceful settlement of disputes,

Recalling the various procedures and methods available to States for the prevention and the peaceful settlement of their disputes, including those provided for in Article 33 of the Charter, as well as monitoring, fact-finding missions, goodwill missions, special envoys, observers and good offices,

Recalling in particular its previous relevant declarations and resolutions concerning dispute prevention, in which, inter alia, it called upon the Secretary-General to make full use of the information-gathering capabilities of the Secretariat and emphasized the need to strengthen the capacity of the United Nations in the field of preventive diplomacy,

Recalling its previous relevant resolutions and decisions concerning dispute settlement, including resolution 2329 (XXII) of 18 December 1967, in which it requested the Secretary-General to prepare a register of experts whose services States parties to a dispute might use for fact-finding in relation to the dispute, decision 44/415 of 4 December 1989, the annex to which contains a draft document on resort to a commission of good offices, mediation or conciliation within the United Nations, and resolution 50/50 of 11 December 1995, the annex to which contains the United Nations Model Rules for the Conciliation of Disputes between States,

Noting with satisfaction that, pursuant to the recommendation contained in its resolution 47/120 A of 18 December 1992, the Secretary-General established a list of eminent and qualified experts for his use in fact-finding and other missions, and that this list has recently been updated,

Recalling that certain multilateral treaties provide for the creation of lists of conciliators and arbitrators for use by States in the settlement of their disputes,

Reaffirming the important role played by judicial mechanisms, in particular the International Court of Justice and the International Tribunal for the Law of the Sea, in the settlement of disputes between States,

1. *Urges* States to make the most effective use of existing procedures and methods for the prevention and settlement of their disputes peacefully, in accordance with the principles of the Charter of the United Nations;

2. *Reaffirms* the duty of all States, in accordance with the principles of the Charter of the United Nations, to use peaceful means to settle any dispute to which they are parties and the continuance of which is likely to endanger the maintenance of international peace and security, and encourages States to settle their disputes as early as possible;

3. *Draws the attention* of States to the important roles played by the Security Council, the General Assembly and the Secretary-General in providing early warning and in working for the prevention of disputes and situations which might threaten international peace and security;

4. *Takes note* of the paper prepared by the Secretariat entitled "Mechanisms established by the General Assembly in the context of dispute prevention and settlement";[8]

5. *Urges* the continued enhancement of the concrete steps taken by the Secretariat to build and improve the capacity of the United Nations to respond effectively and efficiently in matters relating to dispute prevention, including through the strengthening of cooperative mechanisms for information-sharing, planning and development of preventive measures; the development of a comprehensive plan for a revived early-warning and prevention system for the United Nations; training intended to support such enhanced capabilities in these areas; and cooperation with regional organizations;

6. *Encourages* States to nominate suitably qualified persons who are willing to provide fact-finding services, for inclusion in the register set up by the Secretary-General pursuant to paragraph 4 of its resolution 2329 (XXII);

7. *Encourages* eligible States to also nominate suitably qualified persons to have their names included in the lists of conciliators and arbitrators provided for under certain treaties, including the Vienna Convention on the Law of Treaties[9] and the United Nations Convention on the Law of the Sea;[10]

8. *Requests* the Secretary-General to take such steps as he deems necessary from time to time to encourage States to designate suitably qualified persons for inclusion in the various lists referred to above which he has the responsibility to maintain;

9. *Reminds* States that have not yet done so that they may at any time make a declaration under Article 36, paragraph 2, of the Statute of the International Court of Justice with regard to its compulsory jurisdiction in relation to any other State accepting the same obligation, and encourages them to consider doing so.

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[8] A/AC.182/2000/INF.2.

[9] United Nations, *Treaty Series*, vol. 1155, No. 18232.

[10] See *The Law of the Sea: Official Texts of the United Nations Convention on the Law of the Sea of 10 December 1982 and of the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982 with Index and Excerpts from the Final Act of the Third United Nations Conference on the Law of the Sea* (United Nations publication, Sales No. E.97.V.10).

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Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization

Bulgaria, Russian Federation, and Ukraine: draft resolution

Implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions

The General Assembly,

Concerned about the special economic problems confronting certain States arising from the carrying out of preventive or enforcement measures taken by the Security Council against other States, and taking into account the obligation of Members of the United Nations under Article 49 of the Charter of the United Nations to join in affording mutual assistance in carrying out the measures decided upon by the Security Council,

Recalling the right of third States confronted with special economic problems of that nature to consult the Security Council with regard to a solution of those problems, in accordance with Article 50 of the Charter,

Recognizing the desirability of the consideration of further appropriate procedures for consultations to deal in a more effective manner with the problems referred to in Article 50 of the Charter,

Recalling:

(a) The report of the Secretary-General entitled "An Agenda for Peace",[1] in particular paragraph 41 thereof,

(b) Its resolution 47/120 A of 18 December 1992, entitled "An Agenda for Peace: preventive diplomacy and related matters", its resolution 47/120 B of 20 September 1993, entitled "An Agenda for Peace", in particular section IV thereof, entitled "Special economic problems arising from the implementation of preventive

[1] A/47/277-S/24111.

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or enforcement measures", and its resolution 51/242 of 15 September 1997, entitled "Supplement to an Agenda for Peace", in particular annex II thereto, entitled "Question of sanctions imposed by the United Nations",

(c) The position paper of the Secretary-General entitled "Supplement to an Agenda for Peace",[2]

(d) The statement by the President of the Security Council of 22 February 1995,[3]

(e) The report of the Secretary-General[4] prepared pursuant to the statement by the President of the Security Council[5] regarding the question of special economic problems of States as a result of sanctions imposed under Chapter VII of the Charter,

(f) The annual overview reports of the Administrative Committee on Coordination for the period from 1992 to 2000[6] and the annual overview report of the United Nations System Chief Executives Board for Coordination for 2001[7] in particular the sections therein on assistance to countries invoking Article 50 of the Charter,

(g) The reports of the Secretary-General on economic assistance to States affected by the implementation of the Security Council resolutions imposing sanctions against the Federal Republic of Yugoslavia[8] and General Assembly resolutions 48/210 of 21 December 1993, 49/21 A of 2 December 1994, 50/58 E of 12 December 1995, 51/30 A of 5 December 1996, 52/169 H of 16 December 1997, 54/96 G of 15 December 1999, 55/170 of 14 December 2000 and 56/110 of 14 December 2001,

(h) The reports of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization on the work of its sessions held in the years 1994 to 2002,[9]

(i) The reports of the Secretary-General on the implementation of the provisions of the Charter related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter,[10]

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[2] A/50/60-S/1995/1.

[3] S/PRST/1995/9; see *Resolutions and Decisions of the Security Council, 1995*.

[4] A/48/573-S/26705.

[5] S/25036; see *Resolutions and Decisions of the Security Council, 1992*.

[6] E/1993/81, E/1994/19, E/1995/21, E/1996/18 and Add.1, E/1997/54 and Corr.1, E/1998/21, E/1999/48, E/2000/53 and E/2001/55.

[7] E/2002/55.

[8] A/49/356, A/50/423, A/51/356, A/52/535, A/54/534, A/55/620 and Corr.1 and A/56/632.

[9] *Official Records of the General Assembly, Forty-ninth Session, Supplement No. 33* (A/49/33); ibid., *Fiftieth Session, Supplement No. 33* (A/50/33); ibid., *Fifty-first Session, Supplement No. 33* (A/51/33); ibid., *Fifty-second Session, Supplement No. 33* and corrigendum (A/52/33 and Corr.1); ibid., *Fifty-third Session, Supplement No. 33* (A/53/33); ibid., *Fifty-fourth Session, Supplement No. 33* and corrigendum (A/54/33 and Corr.1); ibid., *Fifty-fifth Session, Supplement No. 33* (A/55/33) and ibid., *Fifty-sixth Session, Supplement No. 33* (A/56/33), *Fifty-seventh Session, Supplement No. 33* (A/57/33).

[10] A/50/361, A/51/317, A/52/308, A/53/312, A/54/383 and Add.1, A/55/295 and Add.1, A/56/303 and A/57/165 and Add.1.

(j) The report of the Secretary-General to the Millennium Assembly of the United Nations,[11] in particular section IV.E thereof, entitled "Targeting sanctions",

(k) The United Nations Millennium Declaration,[12] in particular paragraph 9 thereof,

(l) The report of the Secretary-General entitled "Road map towards implementation of the United Nations Millennium Declaration",[13] in particular paragraphs 56 to 61 thereof,

(m) The report of the Office of Internal Oversight Services on the in-depth evaluation of United Nations programmes relating to global development trends, issues and policies and global approaches to social and microeconomic issues and policies, and the corresponding subprogrammes in the regional commissions,[14] in particular recommendation 3 contained therein, as approved by the Committee for Programme and Coordination at its fortieth session,[15]

Taking note of the report of the Secretary-General on the work of the Organization,[16] in particular paragraphs 69 to 71,

Recalling that the question of assistance to third States affected by the application of sanctions has been addressed recently in several forums, including the General Assembly, the Security Council, the Economic and Social Council and their subsidiary organs,

Recalling also the measures taken by the Security Council, in accordance with the statement by the President of the Security Council of 16 December 1994,[17] that, as part of the effort of the Council to improve the flow of information and the exchange of ideas between members of the Council and other States Members of the United Nations, there should be increased recourse to open meetings, in particular at an early stage in its consideration of a subject,

Recalling further the measures taken by the Security Council in accordance with the note by the President of the Security Council of 29 January 1999[18] aimed at improving the work of the sanctions committees, including increasing the effectiveness and transparency of those committees,

Stressing that, in the formulation of sanctions regimes, due account should be taken of the potential effects of sanctions on third States,

Stressing also, in this context, the powers of the Security Council under Chapter VII of the Charter and the primary responsibility of the Council under Article 24 of the Charter for the maintenance of international peace and security in order to ensure prompt and effective action by the United Nations,

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[11] A/54/2000.

[12] See resolution 55/2.

[13] A/56/326.

[14] E/AC.51/2000/2.

[15] See *Official Records of the General Assembly, Fifty-fifth Session, Supplement No. 16* and corrigendum (A/55/16 and Corr.1), chap. II.C.2, para. 243.

[16] *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 1* (A/57/1).

[17] See S/PRST/1994/81; see *Resolutions and Decisions of the Security Council, 1994*.

[18] S/1999/92; see *Resolutions and Decisions of the Security Council, 1999*.

Recalling that, under Article 31 of the Charter, any Member of the United Nations that is not a member of the Security Council may participate, without vote, in the discussion of any question brought before the Council whenever the latter considers that the interests of that Member are specially affected,

Recognizing that the imposition of sanctions under Chapter VII of the Charter has been causing special economic problems in third States and that it is necessary to intensify efforts to address those problems effectively,

Taking into consideration the views of third States which could be affected by the imposition of sanctions,

Recognizing that assistance to third States affected by the application of sanctions would further contribute to an effective and comprehensive approach by the international community to sanctions imposed by the Security Council,

Recognizing also that the international community at large and, in particular, international institutions involved in providing economic and financial assistance should continue to take into account and address in a more effective manner the special economic problems of affected third States arising from the carrying out of preventive or enforcement measures taken by the Security Council under Chapter VII of the Charter, in view of their magnitude and of the adverse impact on the economies of those States,

Recalling the provisions of its resolutions 50/51 of 11 December 1995, 51/208 of 17 December 1996, 52/162 of 15 December 1997, 53/107 of 8 December 1998, 54/107 of 9 December 1999, 55/157 of 12 December 2000 and 56/87 of 12 December 2001,

1. *Renews its invitation* to the Security Council to consider the establishment of further mechanisms or procedures, as appropriate, for consultations as early as possible under Article 50 of the Charter of the United Nations with third States which are or may be confronted with special economic problems arising from the carrying out of preventive or enforcement measures imposed by the Council under Chapter VII of the Charter, with regard to a solution of those problems, including appropriate ways and means for increasing the effectiveness of its methods and procedures applied in the consideration of requests by the affected States for assistance;

2. *Welcomes* the measures taken by the Security Council since the adoption of General Assembly resolution 50/51, most recently the note by the President of the Security Council of 15 January 2002,[19] whereby the members of the Security Council agreed to extend the mandate of the informal working group of the Council established in 2000[20] to develop general recommendations on how to improve the effectiveness of United Nations sanctions, looks forward to the adoption of the proposed outcome document of the working group, in particular those provisions thereof regarding the issues of the unintended impact of sanctions and assistance to States in implementing sanctions, and strongly recommends that the Council continue its efforts to enhance further the effectiveness and transparency of the sanctions committees, to streamline their working procedures and to facilitate access

[19] S/2002/70; see *Resolutions and Decisions of the Security Council, 2002*.
[20] S/2000/319.

to them by representatives of States that find themselves confronted with special economic problems arising from the carrying out of sanctions;

3. *Invites* the Security Council, its sanctions committees and the Secretariat to continue to ensure, as appropriate, that:

(a) Both pre-assessment reports and ongoing assessment reports include as part of their analysis the likely and actual unintended impact of the sanctions on third States and recommend ways in which the negative impact of sanctions can be mitigated;

(b) Sanctions committees provide opportunities for third States affected by sanctions to brief them on the unintended impact of sanctions they are experiencing and on assistance needed by them to mitigate the negative impact of sanctions;

(c) The Secretariat continues to provide, upon request, advice and information to third States to help them to pursue means to mitigate the unintended impact of sanctions, for example, on invoking Article 50 of the Charter for consultation with the Security Council;

(d) Where economic sanctions have had severe effects on third States, the Security Council is able to request the Secretary-General to consider appointing a special representative or dispatching, as necessary, fact-finding missions on the ground to undertake necessary assessments and to identify, as appropriate, possible ways of assistance;

(e) The Security Council is able, in the context of situations referred to in subparagraph (d) above, to consider establishing working groups to consider such situations;

4. *Requests* the Secretary-General to pursue the implementation of General Assembly resolutions 50/51, 51/208, 52/162, 53/107, 54/107, 55/157 and 56/87 and to ensure that the competent units within the Secretariat develop the adequate capacity and appropriate modalities, technical procedures and guidelines to continue, on a regular basis, to collate and coordinate information about international assistance available to third States affected by the implementation of sanctions, to continue developing a possible methodology for assessing the adverse consequences actually incurred by third States and to explore innovative and practical measures of assistance to the affected third States;

5. *Welcomes* the report of the Secretary-General containing a summary of the deliberations and main findings of the ad hoc expert group meeting on developing a methodology for assessing the consequences incurred by third States as a result of preventive or enforcement measures and on exploring innovative and practical measures of international assistance to the affected third States,[21] and renews its invitation to States and relevant international organizations within and outside the United Nations system which have not yet done so to provide their views regarding the report of the ad hoc expert group meeting;

6. *Takes note* of the most recent report of the Secretary-General,[21] and in particular, of his views on the deliberations and main findings, including the recommendations, of the ad hoc expert group on the implementation of the provisions of the Charter related to assistance to third States affected by the

[21] A/57/165 and Add.1.

application of sanctions, as well as the views of States, the organizations of the United Nations system, international financial institutions and other international organizations, as contained in the previous reports of the Secretary-General;[22]

7. *Reaffirms* the important role of the General Assembly, the Economic and Social Council and the Committee for Programme and Coordination in mobilizing and monitoring, as appropriate, the economic assistance efforts of the international community and the United Nations system on behalf of States confronted with special economic problems arising from the carrying out of preventive or enforcement measures imposed by the Security Council and, as appropriate, in identifying solutions to the special economic problems of those States;

8. *Takes note* of the decision of the Economic and Social Council, in its resolution 2000/32 of 28 July 2000, to continue its consideration of the question of assistance to third States affected by the application of sanctions, invites the Council, at its organizational session for 2003, to make appropriate arrangements for this purpose within its programme of work for 2003, and decides to transmit the most recent report of the Secretary-General on the implementation of the provisions of the Charter related to assistance to third States affected by the application of sanctions,[21] together with the relevant background materials, to the Council at its substantive session of 2003;

9. *Invites* the organizations of the United Nations system, international financial institutions, other international organizations, regional organizations and Member States to address more specifically and directly, where appropriate, the special economic problems of third States affected by sanctions imposed under Chapter VII of the Charter and, for this purpose, to consider improving procedures for consultations to maintain a constructive dialogue with such States, including through regular and frequent meetings as well as, where appropriate, special meetings between the affected third States and the donor community, with the participation of United Nations agencies and other international organizations;

10. *Requests* the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, at its session in 2003, to continue to consider on a priority basis the question of the implementation of the provisions of the Charter related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter by commencing a substantive debate on all of the related reports of the Secretary-General, in particular the 1998 report containing a summary of the deliberations and main findings of the ad hoc expert group meeting convened pursuant to paragraph 4 of General Assembly resolution 52/162,[23] together with the most recent report of the Secretary-General on this question, taking into consideration the forthcoming report of the informal working group of the Security Council on general issues relating to sanctions, the proposals submitted on the question, the debate on the question in the Sixth Committee during the fifty-sixth session of the Assembly and the text on the question of sanctions imposed by the United Nations contained in annex II to Assembly resolution 51/242, as well as the implementation of the provisions of Assembly resolutions 50/51, 51/208, 52/162, 53/107, 54/107, 55/157, 56/87 and the present resolution;

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[22] A/54/383 and Add.1 and A/55/295 and Add.1.

[23] A/53/312.

11. *Decides* to consider, within the Sixth Committee or a working group of the Committee, at the fifty-eighth session of the General Assembly, further progress in the elaboration of effective measures aimed at the implementation of the provisions of the Charter related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter;

12. *Requests* the Secretary-General to submit a report on the implementation of the present resolution to the General Assembly at its fifty-eighth session, under the agenda item entitled "Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization".

United Nations A/C.6/57/L.12

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Agenda item 155
Report of the United Nations Commission on International Trade Law on the work of its thirty-fifth session

Algeria, Argentina, Armenia, Australia, Austria, Azerbaijan, Belarus, Belgium, Benin, Brazil, Burkina Faso, Canada, Chile, China, Costa Rica, Croatia, Cyprus, Denmark, Ecuador, Ethiopia, Fiji, Finland, France, Georgia, Germany, Ghana, Greece, Guatemala, Hungary, Indonesia, Iran (Islamic Republic of), Ireland, Israel, Italy, Japan, Jordan, Kenya, Liechtenstein, Lithuania, Luxembourg, Malaysia, Malta, Mexico, Morocco, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Paraguay, Peru, Philippines, Poland, Portugal, Republic of Korea, Romania, Russian Federation, Senegal, Sierra Leone, Singapore, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Sudan, Sweden, Switzerland, Thailand, Trinidad and Tobago, Turkey, United Kingdom of Great Britain and Northern Ireland, Uruguay and Venezuela: draft resolution

Report of the United Nations Commission on International Trade Law on the work of its thirty-fifth session

The General Assembly,

Recalling its resolution 2205 (XXI) of 17 December 1966, by which it established the United Nations Commission on International Trade Law with a mandate to further the progressive harmonization and unification of the law of international trade and in that respect to bear in mind the interests of all peoples, in particular those of developing countries, in the extensive development of international trade,

Reaffirming its belief that the progressive harmonization and unification of international trade law, in reducing or removing legal obstacles to the flow of international trade, especially those affecting the developing countries, would contribute significantly to universal economic cooperation among all States on a basis of equality, equity and common interest and to the elimination of discrimination in international trade and, thereby, to the well-being of all peoples,

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Having considered the report of the Commission on its thirty-fifth session,[1]

Concerned that activities undertaken by other bodies of the United Nations system in the field of international trade law without adequate coordination with the Commission might lead to undesirable duplication of efforts and would not be in keeping with the aim of promoting efficiency, consistency and coherence in the unification and harmonization of international trade law, as stated in its resolution 37/106 of 16 December 1982,

Reaffirming the mandate of the Commission, as the core legal body within the United Nations system in the field of international trade law, to coordinate legal activities in this field,

1. *Takes note with appreciation* of the report of the United Nations Commission on International Trade Law on its thirty-fifth session;[1]

2. *Takes note with satisfaction* of the completion and adoption by the Commission of the UNCITRAL Model Law on International Commercial Conciliation;[2]

3. *Commends* the Commission for the progress made in its work on arbitration, insolvency law, electronic commerce, privately financed infrastructure projects, security interests and transport law;

4. *Reaffirms* the importance, in particular for developing countries, of the work of the Commission concerned with training and technical assistance in the field of international trade law, and in this connection:

(a) Expresses its appreciation to the Commission for organizing seminars and briefing missions in Brazil, Cambodia, Ecuador, Indonesia and Viet Nam;

(b) Expresses its appreciation to the Governments whose contributions enabled the seminars and briefing missions to take place, and appeals to Governments, the relevant bodies of the United Nations system, organizations, institutions and individuals to make voluntary contributions to the United Nations Commission on International Trade Law Trust Fund for Symposia and, where appropriate, to the financing of special projects, and otherwise to assist the secretariat of the Commission in financing and organizing seminars and symposia, in particular in developing countries, and in the award of fellowships to candidates from developing countries to enable them to participate in such seminars and symposia;

(c) Reiterates its appeal to the United Nations Development Programme and other bodies responsible for development assistance, such as the International Bank for Reconstruction and Development and regional development banks, as well as to Governments in their bilateral aid programmes, to support the training and technical assistance programme of the Commission and to cooperate and coordinate their activities with those of the Commission;

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[1] *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 17* (A/57/17).

[2] Ibid., annex I.

5. *Stresses* the importance of bringing into effect the conventions emanating from the work of the Commission for the global unification and harmonization of international trade law, and to this end urges States that have not yet done so to consider signing, ratifying or acceding to those conventions;

6. *Appeals* to Governments, the relevant bodies of the United Nations system, organizations, institutions and individuals to make voluntary contributions to the trust fund established to provide travel assistance for developing countries that are members of the Commission, at their request and in consultation with the Secretary-General;

7. *Decides*, in order to ensure full participation by all Member States in the sessions of the Commission and its working groups, to continue, in the competent Main Committee during the fifty-seventh session of the General Assembly, its consideration of granting travel assistance to the least developed countries that are members of the Commission, at their request and in consultation with the Secretary-General;

8. *Reiterates*, in view of the increased work programme of the Commission, its request to the Secretary-General to strengthen the secretariat of the Commission within the bounds of the resources available in the Organization so as to ensure and enhance the effective implementation of the programme of the Commission, if possible already during the current biennium and, in any case, during the 2004-2005 biennium.

...th plenary meeting
... December 2002

United Nations A/C.6/57/L.13

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Agenda item 155
Report of the United Nations Commission on International Trade Law on the work of its thirty-fifth session

Draft resolution

Model Law on International Commercial Conciliation of the United Nations Commission on International Trade Law

The General Assembly,

Recognizing the value for international trade of methods for settling commercial disputes in which the parties in dispute request a third person or persons to assist them in their attempt to settle the dispute amicably,

Noting that such dispute settlement methods, referred to by expressions such as conciliation and mediation and expressions of similar import, are increasingly used in international and domestic commercial practice as an alternative to litigation,

Considering that the use of such dispute settlement methods results in significant benefits such as reducing the instances where a dispute leads to a termination of a commercial relationship, facilitating the administration of international transactions by commercial parties, and producing savings in the administration of justice by States,

Convinced that the establishment of model legislation on these methods that is acceptable to States with different legal, social and economic systems would contribute to the development of harmonious international economic relations,

Taking note with satisfaction of the completion and adoption by the United Nations Commission on International Trade Law of the Model Law on International Commercial Conciliation,[1]

Believing that the Model Law on International Commercial Conciliation will significantly assist States in enhancing their legislation governing the use of modern

[1] *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 17* (A/57/17), annex I.

02-63527 (E) 141002

conciliation or mediation techniques and in formulating such legislation where none currently exists,

Noting that the preparation of the Model Law on International Commercial Conciliation was the subject of due deliberation and extensive consultations with Governments and interested circles,

Convinced that the Model Law, together with the Conciliation Rules, recommended by the General Assembly in its resolution 35/52 of 4 December 1980, significantly contributes to the establishment of a harmonized legal framework for the fair and efficient settlement of disputes arising in international commercial relations,

1. *Expresses* its appreciation to the United Nations Commission on International Trade Law for completing and adopting the Model Law on International Commercial Conciliation, the text of which is contained in the annex to the present resolution, and for preparing the Guide to Enactment and Use of the Model Law;

2. *Requests* the Secretary-General to make all efforts to ensure that the Model Law on International Commercial Conciliation together with its Guide to Enactment becomes generally known and available;

3. *Recommends* that all States give due consideration to the enactment of the Model Law on International Commercial Conciliation, in view of the desirability of uniformity of the law of dispute settlement procedures and the specific needs of international commercial conciliation practice.

Annex

Model Law on International Commercial Conciliation of the United Nations Commission on International Trade Law

Article 1. Scope of application and definitions

(1) This Law applies to international[a] commercial[b] conciliation.

(2) For the purposes of this Law, "conciliator" means a sole conciliator or two or more conciliators, as the case may be.

(3) For the purposes of this Law, "conciliation" means a process, whether referred to by the expression conciliation, mediation or an expression of similar import, whereby parties request a third person or persons ("the conciliator") to assist

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[a] States wishing to enact this Model Law to apply to domestic as well as international conciliation may wish to consider the following changes to the text:

- Delete the word "international" in paragraph (1) of article 1; and
- Delete paragraphs (4), (5) and (6) of article 1.

[b] The term "commercial" should be given a wide interpretation so as to cover matters arising from all relationships of a commercial nature, whether contractual or not. Relationships of a commercial nature include, but are not limited to, the following transactions: any trade transaction for the supply or exchange of goods or services; distribution agreement; commercial representation or agency; factoring; leasing; construction of works; consulting; engineering; licensing; investment; financing; banking; insurance; exploitation agreement or concession; joint venture and other forms of industrial or business cooperation; carriage of goods or passengers by air, sea, rail or road.

them in their attempt to reach an amicable settlement of their dispute arising out of or relating to a contractual or other legal relationship. The conciliator does not have the authority to impose upon the parties a solution to the dispute.

(4) A conciliation is international if:

(a) The parties to an agreement to conciliate have, at the time of the conclusion of that agreement, their places of business in different States; or

(b) The State in which the parties have their places of business is different from either:

(i) The State in which a substantial part of the obligations of the commercial relationship is to be performed; or

(ii) The State with which the subject matter of the dispute is most closely connected.

(5) For the purposes of this article:

(a) If a party has more than one place of business, the place of business is that which has the closest relationship to the agreement to conciliate;

(b) If a party does not have a place of business, reference is to be made to the party's habitual residence.

(6) This Law also applies to a commercial conciliation when the parties agree that the conciliation is international or agree to the applicability of this Law.

(7) The parties are free to agree to exclude the applicability of this Law.

(8) Subject to the provisions of paragraph (9) of this article, this Law applies irrespective of the basis upon which the conciliation is carried out, including agreement between the parties whether reached before or after a dispute has arisen, an obligation established by law, or a direction or suggestion of a court, arbitral tribunal or competent governmental entity.

(9) This Law does not apply to:

(a) Cases where a judge or an arbitrator, in the course of judicial or arbitral proceedings, attempts to facilitate a settlement; and

(b) [...]

Article 2. Interpretation

(1) In the interpretation of this Law, regard is to be had to its international origin and to the need to promote uniformity in its application and the observance of good faith.

(2) Questions concerning matters governed by this Law which are not expressly settled in it are to be settled in conformity with the general principles on which this Law is based.

Article 3. Variation by agreement

Except for the provisions of article 2 and article 6, paragraph (3), the parties may agree to exclude or vary any of the provisions of this Law.

Article 4. Commencement of conciliation proceedings[c]

(1) Conciliation proceedings in respect of a dispute that has arisen commence on the day on which the parties to that dispute agree to engage in conciliation proceedings.

(2) If a party that invited another party to conciliate does not receive an acceptance of the invitation within thirty days from the day on which the invitation was sent, or within such other period of time as specified in the invitation, the party may elect to treat this as a rejection of the invitation to conciliate.

Article 5. Number and appointment of conciliators

(1) There shall be one conciliator, unless the parties agree that there shall be two or more conciliators.

(2) The parties shall endeavour to reach agreement on a conciliator or conciliators, unless a different procedure for their appointment has been agreed upon.

(3) Parties may seek the assistance of an institution or person in connection with the appointment of conciliators. In particular:

(a) A party may request such an institution or person to recommend suitable persons to act as conciliator; or

(b) The parties may agree that the appointment of one or more conciliators be made directly by such an institution or person.

(4) In recommending or appointing individuals to act as conciliator, the institution or person shall have regard to such considerations as are likely to secure the appointment of an independent and impartial conciliator and, where appropriate, shall take into account the advisability of appointing a conciliator of a nationality other than the nationalities of the parties.

(5) When a person is approached in connection with his or her possible appointment as conciliator, he or she shall disclose any circumstances likely to give rise to justifiable doubts as to his or her impartiality or independence. A conciliator, from the time of his or her appointment and throughout the conciliation proceedings, shall without delay disclose any such circumstances to the parties unless they have already been informed of them by him or her.

Article 6. Conduct of conciliation

(1) The parties are free to agree, by reference to a set of rules or otherwise, on the manner in which the conciliation is to be conducted.

(2) Failing agreement on the manner in which the conciliation is to be conducted, the conciliator may conduct the conciliation proceedings in such a

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[c] The following text is suggested for States that might wish to adopt a provision on the suspension of the limitation period:

Article X. Suspension of limitation period

(1) When the conciliation proceedings commence, the running of the limitation period regarding the claim that is the subject matter of the conciliation is suspended.

(2) Where the conciliation proceedings have terminated without a settlement agreement, the limitation period resumes running from the time the conciliation ended without a settlement agreement.

manner as the conciliator considers appropriate, taking into account the circumstances of the case, any wishes that the parties may express and the need for a speedy settlement of the dispute.

(3) In any case, in conducting the proceedings, the conciliator shall seek to maintain fair treatment of the parties and, in so doing, shall take into account the circumstances of the case.

(4) The conciliator may, at any stage of the conciliation proceedings, make proposals for a settlement of the dispute.

Article 7. Communication between conciliator and parties

The conciliator may meet or communicate with the parties together or with each of them separately.

Article 8. Disclosure of information

When the conciliator receives information concerning the dispute from a party, the conciliator may disclose the substance of that information to any other party to the conciliation. However, when a party gives any information to the conciliator, subject to a specific condition that it be kept confidential, that information shall not be disclosed to any other party to the conciliation.

Article 9. Confidentiality

Unless otherwise agreed by the parties, all information relating to the conciliation proceedings shall be kept confidential, except where disclosure is required under the law or for the purposes of implementation or enforcement of a settlement agreement.

Article 10. Admissibility of evidence in other proceedings

(1) A party to the conciliation proceedings, the conciliator and any third person, including those involved in the administration of the conciliation proceedings, shall not in arbitral, judicial or similar proceedings rely on, introduce as evidence or give testimony or evidence regarding any of the following:

(a) An invitation by a party to engage in conciliation proceedings or the fact that a party was willing to participate in conciliation proceedings;

(b) Views expressed or suggestions made by a party in the conciliation in respect of a possible settlement of the dispute;

(c) Statements or admissions made by a party in the course of the conciliation proceedings;

(d) Proposals made by the conciliator;

(e) The fact that a party had indicated its willingness to accept a proposal for settlement made by the conciliator;

(f) A document prepared solely for purposes of the conciliation proceedings.

(2) Paragraph (1) of this article applies irrespective of the form of the information or evidence referred to therein.

(3) The disclosure of the information referred to in paragraph (1) of this article shall not be ordered by an arbitral tribunal, court or other competent governmental authority and, if such information is offered as evidence in contravention of paragraph (1) of this article, that evidence shall be treated as inadmissible. Nevertheless, such information may be disclosed or admitted in evidence to the extent required under the law or for the purposes of implementation or enforcement of a settlement agreement.

(4) The provisions of paragraphs (1), (2) and (3) of this article apply whether or not the arbitral, judicial or similar proceedings relate to the dispute that is or was the subject matter of the conciliation proceedings.

(5) Subject to the limitations of paragraph (1) of this article, evidence that is otherwise admissible in arbitral or judicial or similar proceedings does not become inadmissible as a consequence of having been used in a conciliation.

Article 11. Termination of conciliation proceedings

The conciliation proceedings are terminated:

(a) By the conclusion of a settlement agreement by the parties, on the date of the agreement;

(b) By a declaration of the conciliator, after consultation with the parties, to the effect that further efforts at conciliation are no longer justified, on the date of the declaration;

(c) By a declaration of the parties addressed to the conciliator to the effect that the conciliation proceedings are terminated, on the date of the declaration; or

(d) By a declaration of a party to the other party or parties and the conciliator, if appointed, to the effect that the conciliation proceedings are terminated, on the date of the declaration.

Article 12. Conciliator acting as arbitrator

Unless otherwise agreed by the parties, the conciliator shall not act as an arbitrator in respect of a dispute that was or is the subject of the conciliation proceedings or in respect of another dispute that has arisen from the same contract or legal relationship or any related contract or legal relationship.

Article 13. Resort to arbitral or judicial proceedings

Where the parties have agreed to conciliate and have expressly undertaken not to initiate during a specified period of time or until a specified event has occurred arbitral or judicial proceedings with respect to an existing or future dispute, such an undertaking shall be given effect by the arbitral tribunal or the court until the terms of the undertaking have been complied with, except to the extent necessary for a party, in its opinion, to preserve its rights. Initiation of such proceedings is not of itself to be regarded as a waiver of the agreement to conciliate or as a termination of the conciliation proceedings.

Article 14. Enforceability of settlement agreement[d]

If the parties conclude an agreement settling a dispute, that settlement agreement is binding and enforceable ... [*the enacting State may insert a description of the method of enforcing settlement agreements or refer to provisions governing such enforcement*].

[d] When implementing the procedure for enforcement of settlement agreements, an enacting State may consider the possibility of such a procedure being mandatory.

United Nations A/C.6/57/L.14

General Assembly

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11 October 2002

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Fifty-seventh session
Sixth Committee
Agenda item 155
Report of the United Nations Commission on International Trade Law on the work of its thirty-fifth session

Draft resolution

Enhancing coordination in the area of international trade law and strengthening the secretariat of the United Nations Commission on International Trade Law

The General Assembly,

Recalling its resolution 2205 (XXI) of 17 December 1966, by which it established the United Nations Commission on International Trade Law with a mandate to further the progressive harmonization and unification of the law of international trade and in that respect to bear in mind the interests of all peoples, in particular those of developing countries, in the extensive development of international trade,

Having considered the report of the United Nations Commission on International Trade Law on the work of its thirty-fifth session,[1]

Noting the demand from Member States, in particular developing countries, for the Commission to provide technical assistance and to prepare legal standards in an increasing number of areas, and that as a result the number of projects of the Commission has more than doubled as compared with previous years,

Noting also the increased need for coordination among a growing number of international organizations that formulate rules and standards for international trade, and the specific function to be performed by the Commission in that respect, as mandated by the General Assembly in its resolution 2205 (XXI) and reiterated in subsequent resolutions,

Satisfied that the current working methods of the Commission have proved their efficiency,

[1] *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 17* (A/57/17).

02-63558 (E) 141002

Concerned, however, about the increased demands on personnel resources of the secretariat of the Commission resulting from the increased work programme, and its impending inability to continue servicing the Commission's working groups and performing other related tasks such as assisting Governments, which could also lead to the Commission having to defer or discontinue work on topics on its agenda and to reduce the number of its working groups,

1. *Emphasizes* the need for higher priority to be given to the work of the United Nations Commission on International Trade Law in view of the increasing value of the modernization of international trade law for global economic development and thus for the maintenance of friendly relations among States;

2. *Takes note* of the recommendation contained in the report of the Office of Internal Oversight Services on the in-depth evaluation of legal affairs[2] that the Office of Legal Affairs should review the requirements of the Commission's secretariat entailed by the expansion in the number of its working groups from three to six and present to the Commission, at its upcoming review of the practical applications of the new working methods, different options that would ensure the necessary level of secretariat services;

3. *Requests* the Secretary-General to consider measures to strengthen the secretariat of the Commission within the bounds of the resources available in the Organization, if possible during the current biennium and in any case during the 2004-2005 biennium.

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[2] E/AC.51/2002/5, recommendation 15.

United Nations A/C.6/57/L.15

General Assembly

Distr.: Limited
18 October 2002

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Fifty-seventh session
Sixth Committee
Agenda item 155
Report of the United Nations Commission on International Trade Law on the work of its thirty-fifth session

Draft resolution

Enlargement of the membership of the United Nations Commission on International Trade Law

The General Assembly,

Recalling its resolution 2205 (XXI) of 17 December 1966, by which it established the United Nations Commission on International Trade Law with a mandate to further the progressive harmonization and unification of the law of international trade and in that respect to bear in mind the interests of all peoples, in particular those of developing countries, in the extensive development of international trade,

Recalling also its resolution 3108 (XXVIII) of 12 December 1973, by which it increased the membership of the Commission from twenty-nine to thirty-six States,

Being satisfied with the practice of the Commission to invite States not members of the Commission and relevant intergovernmental and international non-governmental organizations to participate as observers in sessions of the Commission and its working groups and to take part in the formulation of texts by the Commission, as well as with the practice of reaching decisions by consensus without a formal vote,

Observing that the considerable number of States that have participated as observers and made valuable contributions to the work of the Commission indicates that there exists an interest in active participation in the Commission beyond the current thirty-six member States,

Convinced that wider participation of States in the work of the United Nations Commission on International Trade Law would further the progress of the Commission's work and that the increase in membership in the Commission would stimulate interest in the work of the Commission,

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Having considered comments by States, as well as a report of the Secretary-General,[1] on the implications of increasing the membership of the Commission, submitted pursuant to paragraph 13 of General Assembly resolution 55/151 of 12 December 2000,[2]

1. *Takes note* that the impact of an increase in the membership of the Commission on the Secretariat services required to properly facilitate the work of the Commission would not be material enough to quantify and that therefore the increase would have no financial implications;

2. *Decides* to increase the membership of the United Nations Commission on International Trade Law from thirty-six to sixty States, bearing in mind that the Commission is a technical body whose composition reflects, inter alia, the specific requirements of the subject matter. The regional representation resulting from the current increase in membership, which takes those requirements into account, shall not be a precedent for the enlargement of other bodies in the United Nations system;

3. *Decides also* that the twenty-four additional members of the Commission shall be elected by the General Assembly for a term of six years, except as provided in subparagraph (b) below, in accordance with the following rules:

(a) In electing the additional members, the General Assembly shall observe the following distribution of seats:

(i) Five from African States;

(ii) Seven from Asian States;

(iii) Three from Eastern European States;

(iv) Four from Latin American and Caribbean States;

(v) Five from Western European and other States;

(b) Of the twenty-four additional members elected at the first election, to be held during the fifty-eighth session of the General Assembly, the term of thirteen members shall expire on the last day prior to the beginning of the fortieth session of the Commission, in 2007; the President of the General Assembly shall, by drawing lots, select these members as follows:

(i) Two from those elected from African States, two from those elected from Eastern European States and two from those elected from Western European and other States;

(ii) Four from those elected from Asian States;

(iii) Three from those elected from Latin American and Caribbean States;

(c) The twenty-four additional members elected at the first election shall take office from the first day of the thirty-seventh session of the Commission, in 2004;

(d) The provisions of section II, paragraphs 4 and 5, of General Assembly resolution 2205 (XXI) shall also apply to the additional members;

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[1] A/56/315.

[2] See *Official Records of the Fifty-sixth Session, Supplement No. 17* (A/56/17), para. 370.

4. *Appeals* to Governments, the relevant United Nations organs, organizations, institutions and individuals, in order to ensure full participation by the member States in the sessions of the Commission and its working groups, to consider making voluntary contributions to the Trust Fund established to provide travel assistance to developing countries that are members of the Commission, at their request, and in consultation with the Secretary General.

United Nations A/C.6/57/L.16

General Assembly

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14 October 2002

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Fifty-seventh session
Sixth Committee
Agenda item 158
Establishment of the International Criminal Court

Draft resolution

Establishment of the International Criminal Court

The General Assembly,

Recalling its resolutions 47/33 of 25 November 1992, 48/31 of 9 December 1993, 49/53 of 9 December 1994, 50/46 of 11 December 1995, 51/207 of 17 December 1996, 52/160 of 15 December 1997, 53/105 of 8 December 1998, 54/105 of 9 December 1999, 55/155 of 12 December 2000 and 56/85 of 12 December 2001,

Noting that the Rome Statute of the International Criminal Court was adopted on 17 July 1998,[1] and entered into force on 1 July 2002,

Further noting that the Preparatory Commission for the International Criminal Court established in accordance with resolution F of the Final Act of the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court held its ninth and tenth sessions from 8 to 19 April and from 1 to 12 July 2002, respectively, and thus successfully completed its mandate in accordance with that resolution,

Recalling the United Nations Millennium Declaration adopted at the Millennium Assembly,[2] in which heads of State and Government stressed the importance of the International Criminal Court,

Reiterating the historic significance of the adoption of the Rome Statute of the International Criminal Court,[1]

1. *Calls upon* all States that are not yet parties to the Rome Statute to consider ratifying it or acceding to it without delay, and encourages efforts aimed at promoting awareness of the results of the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, held in Rome from15 June to 17 July 1998, the provisions of the Statute, and the process leading to the establishment of the International Criminal Court;

[1] A/CONF.183/9.
[2] See resolution 55/2.

02-63509 (E) 141002

2. *Calls upon* all States to consider becoming parties to the Agreement on the Privileges and Immunities of the International Criminal Court without delay;

3. *Welcomes* the important work accomplished by the Preparatory Commission for the International Criminal Court in the completion of its mandate in accordance with resolution F of the Rome Conference;

4. *Also welcomes* the holding of the first session of the Assembly of States Parties to the Rome Statute from 3 to 10 September 2002 and the adoption of a number of important instruments by the Assembly;

5. *Takes note* of the report of the Secretary-General on the establishment of the International Criminal Court,[3] in particular of its paragraphs 12 to 15 indicating the decision of the Assembly of States Parties to resume its first session from 3 to 7 February and from 21 to 23 April 2003, and to hold the meeting of the Budget and Finance Committee from 4 to 8 August 2003 as well as the second session of the Assembly of States Parties from 8 to 12 September 2003, all of which are to be held at United Nations Headquarters;

6. *Recognizes* the need to make available, on a provisional basis, adequate resources and secretariat services for the Assembly of States Parties in order to enable it to discharge its functions efficiently and expeditiously;

7. *Requests* the Secretary-General to undertake the preparations necessary for holding the meetings referred to in paragraph 5 in accordance with the rules of procedure of the Assembly of States Parties to the Rome Statute of the International Criminal Court;

8. *Also requests* the Secretary-General to make available to those meetings secretariat services for necessary preparatory work as well as for any post-session follow-up actions;

9. *Further requests* the Secretary-General to take steps to expand the mandate of the trust fund established pursuant to General Assembly resolution 51/207 for voluntary contributions towards meeting the costs of participation of the least developed countries in the work of the Assembly of States Parties to the Rome Statute of the International Criminal Court;

10. *Requests* the Secretary-General to report to the General Assembly at its fifty-eighth session on the implementation of the present resolution;

11. *Decides* that costs of services rendered to the Assembly of States Parties that may accrue to the United Nations as a result of the implementation of the present resolution shall be paid in advance to the Organization;

12. *Also decides* to include in the provisional agenda of its fifty-eighth session an item entitled "International Criminal Court".

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[3] A/57/403.

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General Assembly

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15 October 2002

Original: English

Fifty-seventh session
Sixth Committee
Agenda item 158
Establishment of the International Criminal Court

Draft resolution

Establishment of the International Criminal Court

The General Assembly,

Recalling its resolutions 47/33 of 25 November 1992, 48/31 of 9 December 1993, 49/53 of 9 December 1994, 50/46 of 11 December 1995, 51/207 of 17 December 1996, 52/160 of 15 December 1997, 53/105 of 8 December 1998, 54/105 of 9 December 1999, 55/155 of 12 December 2000 and 56/85 of 12 December 2001,

Noting that the Rome Statute of the International Criminal Court was adopted on 17 July 1998,[1] and entered into force on 1 July 2002,

Further noting that the Preparatory Commission for the International Criminal Court established in accordance with resolution F of the Final Act of the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court held its ninth and tenth sessions from 8 to 19 April and from 1 to 12 July 2002, respectively, and thus successfully completed its mandate in accordance with that resolution,

Recalling the United Nations Millennium Declaration adopted at the Millennium Assembly,[2] in which heads of State and Government stressed the importance of the International Criminal Court,

Reiterating the historic significance of the adoption of the Rome Statute of the International Criminal Court,[1]

1. *Calls upon* all States that are not yet parties to the Rome Statute to consider ratifying it or acceding to it without delay, and encourages efforts aimed at promoting awareness of the results of the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, held in Rome from15 June to 17 July 1998, the provisions of the Statute, and the process leading to the establishment of the International Criminal Court;

[1] A/CONF.183/9.
[2] See resolution 55/2.

02-64018 (E) 151002

2. *Calls upon* all States to consider becoming parties to the Agreement on the Privileges and Immunities of the International Criminal Court without delay;

3. *Welcomes* the important work accomplished by the Preparatory Commission for the International Criminal Court in the completion of its mandate in accordance with resolution F of the Rome Conference;

4. *Also welcomes* the holding of the first session of the Assembly of States Parties to the Rome Statute from 3 to 10 September 2002 and the adoption of a number of important instruments by the Assembly;[1]

5. *Takes note* of the report of the Secretary-General on the establishment of the International Criminal Court,[2] in particular of its paragraphs 12 to 15 indicating the decision of the Assembly of States Parties to resume its first session from 3 to 7 February and from 21 to 23 April 2003, and to hold the meeting of the Budget and Finance Committee from 4 to 8 August 2003 as well as the second session of the Assembly of States Parties from 8 to 12 September 2003, all of which are to be held at United Nations Headquarters;

6. *Recognizes* the need to make available, on a provisional basis, adequate resources and secretariat services for the Assembly of States Parties in order to enable it to discharge its functions efficiently and expeditiously;

7. *Requests the* Secretary-General to undertake the preparations necessary for holding the meetings referred to in paragraph 5 in accordance with the rules of procedure of the Assembly of States Parties to the Rome Statute of the International Criminal Court.

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[1] Rules of procedure and evidence, Elements of crimes, Rules of procedure of the Assembly of States Parties, Financial regulations and rules, Agreement on the privileges and immunities of the International Criminal Court, Basic principles governing a headquarters agreement to be negotiated between the Court and the host country, a draft relationship agreement between the Court and the United Nations, Budget for the first financial period of the Court, resolution on continuity of work in respect of the crime of aggression, resolution on the procedure for the nomination and election of judges, the Prosecutor and Deputy Prosecutors of the International Criminal Court, resolution on the procedure for election of the judges for the International Criminal Court, resolution on the establishment of the Committee on Budget and Finance, resolution on the procedure for the nomination and election of members of the Committee on Budget and Finance, resolution on the establishment of a fund for the benefit of victims of crimes within the jurisdiction of the Court, and of the families of such victims, resolution on the procedure for the nomination and election of members of the Board of Directors of the Trust Fund for the benefit of victims, resolution on provisional arrangements for the secretariat of the Assembly of States Parties, resolution on a permanent secretariat of the Assembly of States Parties, resolution on the selection of the staff of the International Criminal Court, resolution on relevant criteria for voluntary contributions to the International Criminal Court, resolution on budget appropriations for the first financial period and financing of appropriations for the first financial period, resolution on Working Capital Fund for the first financial period, resolution on scales of assessments for the apportionment of the expenses of the International Criminal Court, resolution on crediting contributions to the United Nations Trust Fund to Support the Establishment of the International Criminal Court, decision on provision of funds for the Court, decision on interim arrangements for the exercise of authority pending the assumption of office by the Registrar, decision on the participation of the International Criminal Court in the United Nations Joint Staff Pension Fund and decision on seating arrangements for States Parties.

[2] A/57/403.

8. *Also requests* the Secretary-General to make available to those meetings secretariat services for necessary preparatory work as well as for any post-session follow-up actions;

9. *Further requests* the Secretary-General to take steps to expand the mandate of the trust fund established pursuant to General Assembly resolution 51/207 for voluntary contributions towards meeting the costs of participation of the least developed countries in the work of the Assembly of States Parties to the Rome Statute of the International Criminal Court;

10. *Requests* the Secretary-General to report to the General Assembly at its fifty-eighth session on the implementation of the present resolution;

11. *Decides* that costs of services rendered to the Assembly of States Parties that may accrue to the United Nations as a result of the implementation of the present resolution shall be paid in advance to the Organization;

12. *Expresses* its appreciation to States that made voluntary contributions to the first session of the Assembly of States Parties in accordance with paragraph 10 of resolution 56/85;

13. *Decides* to include in the provisional agenda of its fifty-eighth session an item entitled "International Criminal Court".

United Nations A/C.6/57/L.17

General Assembly

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15 October 2002

Original: English

Fifty-seventh session
Sixth Committee
Agenda item 152
Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts

Antigua and Barbuda, Argentina, Australia, Austria, Belarus, Belgium, Belize, Benin, Bolivia, Bosnia and Herzegovina, Brazil, Bulgaria, Burkina Faso, Cambodia, Cameroon, Canada, Chile, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Ecuador, Ethiopia, Fiji, Finland, France, Gabon, Gambia, Germany, Greece, Guatemala, Hungary, Iceland, Ireland, Italy, Jamaica, Jordan, Kenya, Latvia, Liechtenstein, Lithuania, Luxembourg, Malawi, Mexico, Monaco, Mongolia, Mozambique, Netherlands, New Zealand, Norway, Panama, Peru, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Senegal, Sierra Leone, Slovakia, Slovenia, South Africa, Spain, Sudan, Suriname, Swaziland, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Trinidad and Tobago, Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay, Yugoslavia and Zambia: draft resolution

Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts

The General Assembly,

Recalling its resolutions 32/44 of 8 December 1977, 34/51 of 23 November 1979, 37/116 of 16 December 1982, 39/77 of 13 December 1984, 41/72 of 3 December 1986, 43/161 of 9 December 1988, 45/38 of 28 November 1990, 47/30 of 25 November 1992, 49/48 of 9 December 1994, 51/155 of 16 December 1996, 53/96 of 8 December 1998 and 55/148 of 12 December 2000,

Having considered the report of the Secretary-General on the status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts,[1]

Thanking Member States and the International Committee of the Red Cross for their contribution to the report of the Secretary-General,

[1] A/57/164 and Add.1.

02-64240 (E) 161002

Convinced of the continuing value of established humanitarian rules relating to armed conflicts and the need to respect and ensure respect for these rules in all circumstances within the scope of the relevant international instruments, pending the earliest possible termination of such conflicts,

Stressing the possibility of making use of the International Fact-Finding Commission in relation to an armed conflict, pursuant to article 90 of Protocol I,[2] and recalling that the International Fact-Finding Commission may, where necessary, facilitate, through its good offices, the restoration of an attitude of respect for the Geneva Conventions[3] and the Protocol,

Stressing also the need for consolidating the existing body of international humanitarian law through its universal acceptance and the need for wide dissemination and full implementation of such law at the national level, and expressing concern about all violations of the Geneva Conventions and the two additional Protocols,[4]

Noting with satisfaction the increasing number of national commissions and other bodies involved in advising authorities at the national level on the implementation, dissemination and development of international humanitarian law,

Noting with appreciation the meeting of representatives of those bodies, organized by the International Committee of the Red Cross in Geneva from 25 to 26 March 2002, in order to facilitate the sharing of concrete experience and an exchange of views on their roles and on the challenges they face,

Mindful of the role of the International Committee of the Red Cross in offering protection to the victims of armed conflicts,

Noting with appreciation the continuing efforts of the International Committee of the Red Cross to promote and disseminate knowledge of international humanitarian law, in particular the Geneva Conventions and the two additional Protocols,

Recalling that the Twenty-sixth International Conference of the Red Cross and Red Crescent endorsed the recommendations of the Intergovernmental Group of Experts on the Protection of War Victims, including the recommendation that the depositary of the Geneva Conventions should organize periodic meetings of States parties to the Conventions to consider general problems regarding the application of international humanitarian law,

Welcoming the adoption, at The Hague on 26 March 1999, of a second Protocol[5] to the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict[6] and appreciating the ratifications received so far,

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[2] United Nations, *Treaty Series*, vol. 1125, No. 17512.

[3] Ibid., vol. 75, Nos. 970-973.

[4] Ibid., vol. 1125, Nos. 17512 and 17513.

[5] *International Legal Materials*, vol. XXXVIII, p. 769.

[6] United Nations, *Treaty Series*, vol. 249, No. 3511.

Acknowledging the fact that the Rome Statute of the International Criminal Court,[7] which entered into force on 1 July 2002, includes the most serious crimes of international concern under international humanitarian law, and that the Statute, while recalling that it is the duty of every State to exercise its criminal jurisdiction over those responsible for such crimes, shows the determination of the international community to put an end to impunity for the perpetrators of such crimes and thus to contribute to their prevention,

Acknowledging the usefulness of discussing in the General Assembly the status of international humanitarian law instruments relevant to the protection of victims of armed conflicts,

Noting the twenty-fifth anniversary of the additional Protocols to the Geneva Conventions, which occurred in June 2002, as well as the commemorative events organized, in particular, by Switzerland and the International Committee of the Red Cross, recalling the important achievement of enhancing the protection of civilians in armed conflicts,

1. *Appreciates* the virtually universal acceptance of the Geneva Conventions of 1949,[3] and notes the trend towards a similarly wide acceptance of the two additional Protocols of 1977;[4]

2. *Appeals* to all States parties to the Geneva Conventions that have not yet done so to consider becoming parties to the additional Protocols at the earliest possible date;

3. *Calls upon* all States that are already parties to Protocol I,[5] or those States not parties, on becoming parties to Protocol I, to make the declaration provided for under article 90 of that Protocol;

4. *Calls upon* all States that have not yet done so to consider becoming parties to the 1954 Convention for the Protection of Cultural Property in the Event of Armed Conflict[6] and the two Protocols thereto, and to other relevant treaties on international humanitarian law relating to the protection of victims of armed conflict;

5. *Calls upon* all States parties to the Protocols Additional to the Geneva Conventions to ensure their wide dissemination and full implementation;

6. *Notes with appreciation* the Plan of Action adopted by the Twenty-seventh International Conference of the Red Cross and Red Crescent, in particular the reiteration of the importance of universal adherence to treaties on humanitarian law and their effective implementation at the national level, and welcomes the efforts made by many States towards the fulfilment of their pledges relating to international humanitarian law made at that Conference;

7. *Affirms* the necessity of making the implementation of international humanitarian law more effective;

8. *Welcomes* the advisory service activities of the International Committee of the Red Cross in supporting efforts undertaken by Member States to take legislative and administrative action to implement international humanitarian law

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and in promoting the exchange of information on those efforts between Governments;

9. *Welcomes also* the increasing numbers of national commissions or committees for the implementation of international humanitarian law and for promoting the incorporation of treaties on international humanitarian law into national law and disseminating the rules of international humanitarian law;

10. *Welcomes further* the entry into force on 12 February 2002 of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict,[a] and calls upon all States to consider becoming parties to that Protocol;

11. *Requests* the Secretary-General to submit to the General Assembly at its fifty-ninth session a report on the status of the additional Protocols relating to the protection of victims of armed conflicts, as well as on measures taken to strengthen the existing body of international humanitarian law, inter alia, with respect to its dissemination and full implementation at the national level, based on information received from Member States and the International Committee of the Red Cross;

12. *Decides* to include in the provisional agenda of its fifty-ninth session the item entitled "Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts".

[a] Resolution 54/263, annex I.